

1 not members of the Committee or of the General Assembly, 10 of whom represent the
2 following interests:

- 3 (1) A cable service provider.
- 4 (2) A wireless telecommunications service provider.
- 5 (3) A local exchange provider that is not a wireless telecommunications service
6 provider.
- 7 (4) A local exchange provider that is a wireless telecommunications service
8 provider.
- 9 (5) A telephone membership corporation.
- 10 (6) A city that operates a cable system and an electric power system as a public
11 enterprise.
- 12 (7) A city that operates a cable system as a public enterprise and does not
13 operate an electric power system as a public enterprise.
- 14 (8) A city that is a member of a joint agency established under G.S. 160A-462
15 for the operation of a cable system as a public enterprise.
- 16 (9) The North Carolina League of Municipalities.
- 17 (10) The North Carolina Association of County Commissioners.

18 **SECTION 3.** G.S. 105-164.11(a) reads as rewritten:

19 "(a) Remittance of ~~Over Collections~~ Overcollections to Secretary. – When ~~the tax is~~
20 collected for any period ~~is on a taxable sale~~ in excess of the total amount that should have been
21 ~~collected, collected or is collected on an exempt or nontaxable sale,~~ the total amount collected
22 must be ~~paid over~~ remitted to the Secretary. ~~When tax is collected for any period on exempt or~~
23 ~~nontaxable sales the tax erroneously collected shall be remitted to the Secretary and no refund~~
24 ~~shall be made to a taxpayer unless the purchaser has received credit for or has been refunded~~
25 ~~the amount of tax erroneously charged. The seller who overcollected the tax is not allowed a~~
26 ~~refund of the overcollected tax unless the seller gives the purchaser credit for or a refund of the~~
27 ~~overcollected tax. If the Secretary determines that a seller who overcollected tax on a~~
28 ~~transaction is liable for use tax on the transaction rather than sales tax or is liable for sales tax~~
29 ~~on the transaction rather than use tax, the seller may apply the overcollected tax to the seller's~~
30 ~~liability for use tax or sales tax on the transaction. This provision-subsection shall be construed~~
31 with other provisions of this Article and given effect so as to result in the payment to the
32 Secretary of the total amount collected as tax if it is in excess of the amount that should have
33 been ~~collected, collected and to preclude collection of both a sales tax and a use tax on the same~~
34 ~~transaction.~~"

35 **SECTION 4.** This act is effective when it becomes law. Section 3 of this act
36 applies to liabilities that accrue on or after that date, are not collectible as of that date, or are the
37 subject of a final agency decision made on or after January 1, 2010.