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SENATE BILL 55  
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Short Title: Revenue Laws Technical Changes.

(Public)

Sponsors:

Referred to:

February 9, 1999

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

The General Assembly of North Carolina enacts:

Section 1. Section 7 of S.L. 1998-158 reads as rewritten:

"Section 7. ~~Section 5 of this act is effective for taxable years beginning on or after October 1, 1998. The remainder of this~~ This act is effective when it becomes law."

Section 2. G.S. 1C-1601(a)(9) reads as rewritten:

"(a) Exempt property. – Each individual, resident of this State, who is a debtor is entitled to retain free of the enforcement of the claims of his creditors:

...  
(9) Individual retirement accounts as described in Section 408(a) of the Internal Revenue Code, individual retirement annuities as described in Section 408(b) of the Internal Revenue Code, and accounts established as part of a trust described in Section 408(c) of plans as defined in the Internal Revenue Code and any plan treated in the same manner as an individual retirement plan under the Internal Revenue Code. For

1 purposes of this subdivision, 'Internal Revenue Code' means Code as  
2 defined in G.S. 105-228.90."

3 Section 3.(a) G.S. 10A-4(b) reads as rewritten:

4 "(b) A person qualified for a notarial commission shall meet all of the following  
5 requirements:

- 6 (1) Be at least 18 years of age.
- 7 (2) Reside or work in this State.
- 8 (3) Satisfactorily complete a course of study that is approved by the  
9 Secretary and consists of not less than three hours nor more than six  
10 hours of classroom instruction provided by community colleges  
11 throughout the State, unless the person is a licensed member of the Bar  
12 of this State.
- 13 (4) Purchase and keep as a reference a manual approved by the Secretary  
14 that describes the duties, authority, and ethical responsibilities of  
15 notaries public.
- 16 (5) Submit an application containing no significant misstatement or  
17 omission of fact. The application form shall be provided by the  
18 Secretary and be available at the register of deeds office in each county.  
19 Every application shall bear the signature of the applicant written with  
20 pen and ink, and the signature shall be acknowledged by the applicant  
21 before a person authorized to administer oaths. The applicant shall also  
22 obtain the recommendation of one publicly elected official in North  
23 Carolina whose recommendation shall be contained on the application.
- 24 (6) Pay a nonrefundable fee of ~~twenty-five dollars (\$25.00)~~ thirty dollars  
25 (\$30.00)."

26 Section 3.(b) G.S. 10A-7(a) reads as rewritten:

27 "(a) The course of study required by G.S. 10A-4(b) shall be taught by an instructor  
28 certified in accordance with rules adopted by the Secretary. An instructor must meet the  
29 following requirements to be certified to teach a course of study for notaries public:

- 30 (1) Complete and pass a six-hour instructor's course taught by the Director  
31 or other person approved by the Secretary.
- 32 (2) Have six months of active experience as a notary public.
- 33 (3) Maintain a current commission as a notary public.
- 34 (4) Purchase the current notary public guidebook.
- 35 (5) Pay a nonrefundable fee of fifty dollars (\$50.00).  
36 ~~thirty dollars (\$30.00)~~ thirty dollars (\$30.00)"

37 Section 3.(c) This section becomes effective October 1, 1999.

38 Section 4. G.S. 28A-21-2(a) reads as rewritten:

39 "(a) Unless the time for filing the final account has been extended by the clerk of  
40 superior court, the personal representative or collector must file ~~his~~ the final account for  
41 settlement within one year ~~of his qualification~~ after qualifying or within six months after  
42 ~~his receipt of the State~~ receiving a State estate or inheritance tax release, whichever is later.  
43 If no estate or inheritance tax return was required to be filed for the ~~estate under G.S. 105-~~

1 ~~23 because the estate met the requirements of subsection (b) of that section, estate,~~ the personal  
2 representative or collector shall so certify in the final account filed with the clerk of  
3 superior court. Such certification shall list the amount and value of all of the decedent's  
4 property, and with respect to real estate, its particular location within or outside the State,  
5 including any property transferred by the decedent over which ~~he~~ the decedent had  
6 retained any ~~interest as described in G.S. 105-2(a)(3),~~ interest, or any property transferred  
7 within three years prior to the date of the decedent's death, and after being filed and  
8 accepted by the clerk of the superior court shall be prima facie evidence that such  
9 property is free of any State inheritance or State estate tax liability. The personal  
10 representative or collector shall produce vouchers for all payments or verified proof for  
11 all payments in lieu of vouchers. With the approval of the clerk of superior court, such  
12 account may be filed voluntarily at any time. In all cases, the accounting shall be  
13 reviewed, audited and recorded by the clerk of superior court in the manner prescribed in  
14 G.S. 28A-21-1."

15 Section 5. G.S. 29-13 reads as rewritten:

16 **"§ 29-13. Descent and distribution upon intestacy.**

17 All the estate of a person dying intestate shall descend and be distributed, subject to  
18 the payment of costs of administration and other lawful claims against the estate, and  
19 subject to the payment ~~by the recipient~~ of State inheritance or estate taxes, as provided in  
20 this Chapter."

21 Section 6. G.S. 29-20 reads as rewritten:

22 **"§ 29-20. Descent and distribution upon intestacy of illegitimate children.**

23 All the estate of a person dying illegitimate and intestate shall descend and be  
24 distributed, subject to the payment of costs of administration and other lawful claims  
25 against ~~his~~ the estate, and subject to the payment ~~by the recipient~~ of State inheritance or  
26 estate taxes, as provided in this Article."

27 Section 7. G.S. 36A-100(c) reads as rewritten:

28 "(c) A person having the right to designate the beneficiary under a life insurance  
29 policy, employee benefit plan or group life insurance policy described in subsection (a) or  
30 (b) of this section may designate as such beneficiary a trustee named or to be named in  
31 his will whether or not the will is in existence at the time of the designation. The proceeds  
32 received by the trustee shall be held and disposed of as part of the trust estate under the  
33 terms of the will as they exist at the death of the testator. If no qualified trustee makes  
34 claim to the proceeds within six months after the death of the decedent or if within that  
35 period it is established that no trustee can qualify to receive the proceeds, payments shall  
36 be made to the personal representative of the estate of the person making the designation  
37 unless it is otherwise provided by an alternative designation or by the policy or plan. The  
38 proceeds received by the trustee shall not be subject to claims against the estate of the  
39 decedent or to estate or inheritance taxes to any greater extent than if the proceeds were  
40 payable directly to the beneficiary or beneficiaries named in the trust. The proceeds may  
41 be commingled with any other assets which may properly become part of such trust, but  
42 the proceeds shall not become part of the decedent's estate for purposes of trust  
43 administration unless the will of the decedent expressly so provides."

1 Section 8. G.S. 36A-125(a) reads as rewritten:

2 "(a) If at any time the trustee of a noncharitable irrevocable trust determines in  
3 good faith that the value of the assets held in trust is ten thousand dollars (\$10,000) or  
4 less, and the continuance of the trust pursuant to its terms in relation to the cost of its  
5 administration would defeat or substantially impair the accomplishment of the purposes  
6 of the trust, the trustee, without approval of the court, may, but is not required to,  
7 terminate the trust and distribute the trust property, including principal and undistributed  
8 income, to the beneficiaries in a manner which conforms as nearly as possible to the  
9 intention of the settlor as determined by the trustee from the trust agreement; provided,  
10 however, that the trust property, including principal and undistributed income, shall be  
11 distributed to the income beneficiary of the trust if the trust otherwise qualifies for the  
12 marital deduction for federal estate tax or North Carolina estate or inheritance tax  
13 purposes, or is a Qualified Subchapter S Trust as defined in the Internal Revenue Code.  
14 The trustee may enter into an agreement or make such other provisions that the trustee  
15 deems necessary or appropriate to protect the interests of the beneficiaries and to carry  
16 out the intent and purpose of the trust."

17 Section 9. G.S. 41-2.1(f) reads as rewritten:

18 "(f) This section does not repeal or modify any provisions of the law relating to  
19 estate or inheritance taxes."

20 Section 10. G.S. 41-2.2(d) reads as rewritten:

21 "(d) This section does not repeal or modify any provisions of the law relating to  
22 estate or inheritance taxes."

23 Section 11. G.S. 41-2.5(d) reads as rewritten:

24 "~~(d) Nothing herein contained shall be construed to repeal or modify any of the~~  
25 ~~provisions of Article 1 of Chapter 105 relating to the administration of the inheritance tax~~  
26 ~~laws or any other provision of the law relating to~~ This section does not repeal or modify  
27 any provisions of the law relating to estate or inheritance taxes."

28 Section 12. G.S. 93B-15 reads as rewritten:

29 "**§ 93B-15. Payment of license fees by members of the armed forces.**

30 An individual who is serving in the armed forces of the United States and to whom  
31 G.S. 105-249.2 grants an extension of time to file a tax return is granted an extension of  
32 time to pay any license fee charged by an occupational licensing board ~~or~~ as a condition  
33 of retaining a license granted by the board. The extension is for the same period that  
34 would apply if the license fee were a tax."

35 Section 13. G.S. 105-32.8 reads as rewritten:

36 "**§ 105-32.8. Federal determination that changes the amount of tax payable to the**  
37 **State.**

38 If the federal government corrects or otherwise determines the amount of the  
39 maximum state death tax credit allowed an estate under section 6166 of the Code, the  
40 personal representative must, within two years after being notified of the correction or  
41 final determination by the federal government, file an estate tax return with the Secretary  
42 reflecting the correct amount of tax payable under this Article. If the federal government  
43 corrects or otherwise determines the amount of the maximum state generation-skipping

1 transfer tax credit allowed under section 2604 of the Code, the person who made the  
2 transfer must, within two years after being notified of the correction or final  
3 determination by the federal government, file a tax return with the Secretary reflecting  
4 the correct amount of tax payable under this Article.

5 The Secretary must assess and collect any additional tax due as provided in Article 9  
6 of this Chapter and must refund any overpayment of tax as provided in Article 9 of this  
7 Chapter. A person who fails to report a federal correction or determination in accordance  
8 with this section is ~~subject to the penalties in G.S. 105-236 and forfeits the right to any~~  
9 refund due by reason of the determination."

10 Section 14.(a) G.S. 105-37.1 reads as rewritten:

11 "~~§ 105-37.1. (Effective July 1, 1999) Amusements – Forms of amusement not~~  
12 ~~otherwise taxed.~~

13 (a) ~~Every person engaged in the business of giving, offering, or managing any~~  
14 ~~form of entertainment or amusement not otherwise taxed under this Article, for which an~~  
15 ~~admission is charged, shall pay a tax upon the gross receipts of the business at the rate of~~  
16 ~~three percent (3%). Reports shall be made to the Secretary within the first 10 days of each~~  
17 ~~month covering all the gross receipts for the previous month, and the tax shall be paid~~  
18 ~~monthly at the time the reports are made.~~

19 ~~Every person giving, offering, or managing any dance or athletic contest of any kind,~~  
20 ~~except high school and elementary school athletic contests, for which an admission fee in~~  
21 ~~excess of fifty cents (50¢) is charged, shall pay a tax upon the gross receipts derived from~~  
22 ~~admission charges at the rate of three percent (3%). The tax upon gross receipts shall be~~  
23 ~~levied and collected as prescribed by the Secretary.~~

24 (b) ~~Counties shall not levy any license tax on the business taxed under this section,~~  
25 ~~but cities may levy a license tax not in excess of twenty five dollars (\$25.00).~~

26 (c), (d) ~~Repealed by Session Laws 1998-95, s. 4, effective July 1, 1999.~~

27 "~~§ 105-37.1. (Effective July 1, 1999) Dances, athletic events, shows, exhibitions, and~~  
28 ~~other entertainments.~~

29 (a) Scope. – A privilege tax is imposed on the gross receipts of a person who is  
30 engaged in any of the following:

31 (1) Giving, offering, or managing a dance or an athletic contest for which  
32 an admission fee in excess of fifty cents (50¢) is charged.

33 (2) Giving, offering, or managing a form of amusement or entertainment  
34 that is not taxed by another provision of this Article and for which an  
35 admission fee is charged.

36 (3) Exhibiting a performance, show, or exhibition, such as a circus or dog  
37 show, that is not taxed by another provision of this Article.

38 (b) Rate and Payment. – The rate of the privilege tax is three percent (3%) of the  
39 gross receipts from the activities described in subsection (a) of this section. The tax is  
40 due when a return is due. A return is due by the 10th day after the end of each month and  
41 covers the gross receipts received during the previous month.

42 (c) Advance Report. – A person who owns or controls a performance, show, or  
43 exhibition subject to the tax imposed by this section and who plans to bring the

1 performance to this State from outside the State must file a statement with the Secretary  
2 that lists the dates, times, and places of the performance, show, or exhibition. The  
3 statement must be filed no less than five days before the first performance, show, or  
4 exhibition in this State.

5 (d) Local Taxes. – Cities may levy a license tax on a person taxed under  
6 subdivision (a)(1) or (a)(2) of this section; however, the tax may not exceed twenty-five  
7 dollars (\$25.00). Cities may levy a license tax on a person taxed under subdivision (a)(3)  
8 of this section; however, the tax may not exceed twenty-five dollars (\$25.00) for each day  
9 or part of a day the performance, show, or exhibition is given at each location.

10 Counties may not levy a license tax on a person taxed under subdivision (a)(1) or  
11 (a)(2) of this section. Counties may levy a license tax on a person taxed under  
12 subdivision (a)(3) to the same extent as a city."

13 Section 14.(b) G.S. 105-38 is repealed.

14 Section 15.(a) G.S. 105-38.1 reads as rewritten:

15 **"§ 105-38.1. Amusements—Motion picture shows.**

16 (a) Tax.—A privilege tax at the rate of one percent (1%) is imposed on the gross  
17 receipts of a person who is engaged in the business of operating a motion picture show  
18 for which an admission is charged. The tax is due when a return is due. A return is due  
19 by the 10th day after the end of each month and covers the gross receipts received during  
20 the previous month. If a person offers an entertainment or amusement that includes both  
21 a motion picture taxable under this section and an entertainment or amusement taxable  
22 under ~~G.S. 105-37.1 or G.S. 105-38~~, G.S. 105-37.1, the tax in ~~G.S. 105-37.1 or G.S. 105-38~~,  
23 ~~as appropriate, that statute~~ applies to the entire gross receipts and the tax levied in this  
24 section does not apply.

25 (b) Exemption.—~~Gross receipts from a motion picture show promoted and~~  
26 ~~managed by a qualifying corporation that operates a center for the performing and visual~~  
27 ~~arts is exempt from the tax imposed under this section if the motion picture is shown at~~  
28 ~~the center and if the showing of motion pictures is not the primary purpose of the center.~~  
29 ~~As used in this subsection, "qualifying corporation" and "center for the performing and~~  
30 ~~visual arts" have the same meaning as in G.S. 105-40."~~

31 Section 15.(b) G.S. 105-40(7) reads as rewritten:

32 "(7) ~~All dances—dances, motion picture shows, and other amusements~~  
33 ~~promoted and managed by a qualifying corporation that operates a~~  
34 ~~center for the performing and visual arts if the dance or other~~  
35 ~~amusement is held at the center. "Qualifying corporation" means a~~  
36 ~~corporation that is exempt from income tax under G.S. 105-~~  
37 ~~130.11(a)(3). "Center for the performing and visual arts" means a~~  
38 ~~facility, having a fixed location, that provides space for dramatic~~  
39 ~~performances, studios, classrooms, and similar accommodations to~~  
40 ~~organized arts groups and individual artists. This exemption does not~~  
41 ~~apply to athletic events."~~

42 Section 16. G.S. 105-109.1 is repealed.

43 Section 17. G.S. 105-113 is repealed.

1 Section 18. G.S. 105-113.27(c) reads as rewritten:

2 "(c) The possession of more than six hundred cigarettes ~~bearing the tax stamp of on~~  
3 which tax has been paid to another state or country, by any person other than a licensed  
4 distributor, ~~shall be~~ is prima facie evidence that the cigarettes are possessed in violation of  
5 this Part."

6 Section 19. G.S. 105-113.106(4c) reads as rewritten:

7 "(4c) Low-street-value drug. – Any of the following controlled substances:

- 8 a. An anabolic steroid as defined in G.S. 90-91(k).  
9 b. A depressant described in ~~G.S. 90-89(d), 90-90(d),~~ G.S. 90-89(4),  
10 90-90(4), 90-91(b), or 90-92(a).  
11 c. A hallucinogenic substance described in ~~G.S. 90-89(e) or G.S. 90-~~  
12 ~~90(e).~~ G.S. 90-89(3) or G.S. 90-90(5).  
13 d. A stimulant described in ~~G.S. 90-89(e), 90-90(e),~~ G.S. 90-89(5),  
14 90-90(3), 90-91(j), 90-92(d), 90-92(a)(3), or 90-93(a)3. ~~90-~~  
15 ~~93(a)(3).~~  
16 e. A controlled substance described in G.S. 90-91(c), (d), or (e), ~~90-~~  
17 ~~92(e), (e), or (f),~~ 90-92(a)(3), or (a)(5), or 90-93(a)1."

18 Section 20. G.S. 105-114(b)(2) reads as rewritten:

19 "(b) Definitions. – The following definitions apply in this Article:

20 ...

21 (2) Corporation. – A domestic corporation, a foreign corporation, an  
22 electric membership corporation organized under Chapter 117 of the  
23 General Statutes or doing business in this State, or an association that is  
24 organized for pecuniary gain, has capital stock represented by shares,  
25 whether with or without par value, and has privileges not possessed by  
26 individuals or partnerships. The term includes a mutual or capital stock  
27 savings and loan association or building and loan association chartered  
28 under the laws of any state or of the United States. The term does not  
29 include a limited liability company."

30 Section 21. G.S. 105-122(c)(1) reads as rewritten:

31 "(c) (1) After ascertaining and determining the amount of its capital  
32 stock, surplus and undivided profits, as provided herein, every  
33 corporation permitted to allocate and apportion its net income for  
34 income tax purposes under the provisions of Article 4 of this Chapter  
35 shall apportion said capital stock, surplus and undivided profits to this  
36 State through use of the fraction computed for apportionment of its  
37 business income under said Article. A corporation that is subject to  
38 franchise tax under this Article but is not subject to income tax under  
39 Article 4 of this Chapter must apportion its capital stock, surplus, and  
40 undivided profits to this State by using the apportionment formula that  
41 would apply to the corporation if it were subject to Article 4.

42 Provided, that although a corporation is authorized by the Tax  
43 Review Board to apportion its business income by use of an alternative

1 formula or method, the corporation may not use such alternative  
2 formula or method for apportioning its capital stock, surplus and  
3 undivided profits unless specifically authorized to do so by order of the  
4 Tax Review Board.

5 Provided, further, that a corporation which is required to pay an  
6 income tax to this State on its entire net income shall apportion its entire  
7 capital stock, surplus and undivided profits to this State."

8 Section 22. G.S. 105-130.16 reads as rewritten:

9 "**§ 105-130.16. Returns.**

10 (a) Return. – Every corporation doing business in this State shall file with the  
11 Secretary of Revenue ~~must file with the Secretary an income tax return under affirmation,~~  
12 showing ~~therein~~ specifically the items of gross income and the deductions allowed by this  
13 Part, ~~Part and such other facts as the Secretary may require for the purpose of making any other~~  
14 facts the Secretary requires to make any computation required by this Part. The return of  
15 a corporation ~~shall be signed by either~~ must be signed by its president, vice-president,  
16 treasurer, assistant treasurer, ~~secretary~~ secretary, or assistant secretary. ~~There shall be~~  
17 ~~annexed to the return the affirmation of the officer signing the same, which shall be in the form~~  
18 ~~prescribed in G.S. 105-130.17 of this Part, and the same penalties prescribed in G.S. 105-236~~  
19 ~~shall apply to any person making wilful misstatements in said returns.~~ The officer signing the  
20 return must furnish an affirmation verifying the return. The affirmation must be in the  
21 form required by the Secretary.

22 (b) Correction of Distortions. – When the Secretary of Revenue ~~has reason to~~  
23 believe that any corporation so conducts its trade or business in such manner as to either  
24 directly or indirectly distort its true net income and the net income properly attributable  
25 to the State, whether by the arbitrary shifting of income, through price fixing, charges for  
26 service, or otherwise, whereby the net income is arbitrarily assigned to one or another  
27 unit in a group of taxpayers carrying on business under a substantially common control,  
28 ~~he may require such facts as he deems~~ the Secretary may require any facts the Secretary  
29 considers necessary for the proper computation of the entire net income and the net  
30 income properly attributable to the State, and in determining same the Secretary of Revenue  
31 ~~shall these computations, the Secretary must have regard to the fair profit which that~~  
32 would normally arise from the conduct of the trade or business.

33 (c) Other Corrections. – When any corporation liable to taxation under this Part  
34 conducts its business in such a manner as to either directly or indirectly benefit the  
35 members or stockholders thereof or any person interested in ~~such~~ the business by selling  
36 its products or goods or commodities in which it deals at less than the fair price which  
37 might be obtained therefor, or ~~where~~ when a corporation, a substantial portion of whose  
38 capital stock is owned either directly or indirectly by another corporation, acquires and  
39 disposes of the products of the corporation so owning a substantial portion of its stock in  
40 such a manner as to create a loss or improper net income for either of ~~said~~ the  
41 corporations, or ~~where~~ when a corporation, owning directly or indirectly a substantial  
42 portion of the stock of another corporation, acquires and disposes of the products of the  
43 corporation of which it so owns a substantial portion of the stock in such manner as to



1 create a loss or improper net income for either of ~~said~~ the corporations, the Secretary of  
2 ~~Revenue~~ may determine the amount of taxable income of ~~any~~ the such corporations for the  
3 calendar or fiscal year, having due regard to the reasonable profits which, but for such  
4 arrangement or understanding, might or could have been obtained by the ~~corporation~~ of  
5 corporations liable to taxation under this Part from dealing in such products, goods or  
6 commodities."

7 Section 23. G.S. 105-130.33(a) reads as rewritten:

8 "(a) Any corporation that constructs or installs a hydroelectric generator with a  
9 capacity of at least three kilowatts (3KW) at an existing dam or free flowing stream  
10 located in this State shall be allowed a credit against the tax imposed by this Part equal to  
11 ten percent (10%) of the installation and equipment costs of the hydroelectric generator  
12 paid during the taxable year. The credit allowed under this section may not exceed five  
13 thousand dollars (\$5,000) for any single installation. No credit is allowed, however, to  
14 the extent that any of the costs of the system were provided by federal, State, or local  
15 grants. To secure the credit allowed by this section, the taxpayer must own or control the  
16 site at the time the hydroelectric generator is installed. The credit allowed by this section  
17 may not exceed the amount of the tax imposed by this Part for the taxable year reduced  
18 by the sum of all credits ~~allowable under this Part,~~ allowable, except payments of tax made  
19 by or on behalf of the taxpayer."

20 Section 24. G.S. 105-131.7(d) reads as rewritten:

21 "(d) The agreements required to be filed pursuant to subsection (c) of this section  
22 shall be filed at the following times:

- 23 (1) At the time the annual return is required to be filed for the first taxable  
24 period for which the S Corporation becomes subject to the provisions of  
25 this ~~Division;~~ and Part.
- 26 (2) At the time the annual return is required to be filed for any taxable  
27 period in which the corporation has a nonresident shareholder on whose  
28 behalf such an agreement has not been previously filed."

29 Section 25. G.S. 105-152(e) reads as rewritten:

30 "(e) Joint Returns. – A husband and wife shall file a single income tax return jointly  
31 if (i) their federal taxable income is determined on a joint federal return and (ii) both  
32 spouses are residents of this State or both spouses have North Carolina taxable income.  
33 Except as otherwise provided in this Part, a wife and husband filing jointly are treated as  
34 one taxpayer for the purpose of determining the tax imposed by this Part. A husband and  
35 wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced  
36 by the sum of all credits allowable including tax payments made by or on behalf of the  
37 husband and wife. However, if a spouse has been relieved of liability for federal tax  
38 attributable to a substantial understatement by the other spouse pursuant to section ~~6013~~  
39 6015 of the Code, that spouse is not liable for the corresponding tax imposed by this Part  
40 attributable to the same substantial understatement by the other spouse. A wife and  
41 husband filing jointly have expressly agreed that if the amount of the payments made by  
42 them with respect to the taxes for which they are liable, including withheld and estimated

1 taxes, exceeds the total of the taxes due, refund of the excess may be made payable to  
2 both spouses jointly or, if either is deceased, to the survivor alone."

3 Section 26. G.S. 105-154(c) reads as rewritten:

4 "(c) Information Returns of Partnerships. – A partnership doing business in this  
5 State and required to file a return under the Code shall file an information return with the  
6 Secretary. A partnership that the Secretary believes to be doing business in this State and  
7 to be required to file a return under the Code shall file an information return when  
8 requested to do so by the Secretary. The information return shall contain all information  
9 required by the Secretary. It shall state specifically the items of the partnership's gross  
10 income, the deductions allowed under the Code, and the adjustments required by this  
11 Part. The information return shall also include the name and address of each person who  
12 would be entitled to share in the partnership's net income, if distributable, and the amount  
13 each person's distributive share would be. The information return shall specify the part of  
14 each person's distributive share of the net income that represents corporation dividends.  
15 The information return shall be signed by one of the partners under affirmation in the  
16 form ~~prescribed in G.S. 105-155~~ required by the Secretary.

17 A partnership that files an information return under this subsection shall furnish to  
18 each person who would be entitled to share in the partnership's net income, if  
19 distributable, any information necessary for that person to properly file a State income tax  
20 return. The information shall be in the form prescribed by the Secretary and must be  
21 furnished on or before the due date of the information return."

22 Section 27. G.S. 105-163.011 reads as rewritten:

23 "**§ 105-163.011. (Repealed effective for investments made on or after January 1,**  
24 **2003) Tax credits allowed.**

25 (a) No Credit for Brokered Investments. – No credit is allowed under this section  
26 for a purchase of equity securities or subordinated debt if a broker's fee or commission or  
27 other similar remuneration is paid or given directly or indirectly for soliciting the  
28 purchase.

29 (b) Individuals. – Subject to the limitations contained in G.S. 105-163.012, an  
30 individual who purchases the equity securities or subordinated debt of a qualified  
31 business venture or a qualified grantee business directly from that business is allowed as  
32 a credit against the tax imposed by Part 2 of this Article for the taxable year an amount  
33 equal to twenty-five percent (25%) of the amount invested. The aggregate amount of  
34 credit allowed an individual for one or more investments in a single taxable year under  
35 this ~~Division, Part,~~ whether directly or indirectly as owner of a pass-through entity, may  
36 not exceed fifty thousand dollars (\$50,000). The credit may not be taken for the year in  
37 which the investment is made but shall be taken for the taxable year beginning during the  
38 calendar year in which the application for the credit becomes effective as provided in  
39 subsection (c) of this section.

40 (b1) Pass-Through Entities. – This subsection does not apply to a pass-through  
41 entity that has committed capital under management in excess of five million dollars  
42 (\$5,000,000) or to a pass-through entity that is a qualified grantee business, a qualified  
43 business venture, or a North Carolina Enterprise Corporation. Subject to the limitations

1 provided in G.S. 105-163.012, a pass-through entity that purchases the equity securities  
2 or subordinated debt of a qualified grantee business or a qualified business venture  
3 directly from the business is eligible for a tax credit equal to twenty-five percent (25%) of  
4 the amount invested. The aggregate amount of credit allowed a pass-through entity for  
5 one or more investments in a single taxable year under this ~~Division, Part,~~ whether  
6 directly or indirectly as owner of another pass-through entity, may not exceed seven  
7 hundred fifty thousand dollars (\$750,000). The pass-through entity is not eligible for the  
8 credit for the year in which the investment by the pass-through entity is made but shall be  
9 eligible for the credit for the taxable year beginning during the calendar year in which the  
10 application for the credit becomes effective as provided in subsection (c) of this section.

11 Each individual who is an owner of a pass-through entity is allowed as a credit against  
12 the tax imposed by Part 2 of this Article for the taxable year an amount equal to the  
13 owner's allocated share of the credits for which the pass-through entity is eligible under  
14 this subsection. The aggregate amount of credit allowed an individual for one or more  
15 investments in a single taxable year under this ~~Division, Part,~~ whether directly or  
16 indirectly as owner of a pass-through entity, may not exceed fifty thousand dollars  
17 (\$50,000).

18 If an owner's share of the pass-through entity's credit is limited due to the maximum  
19 allowable credit under this section for a taxable year, the pass-through entity and its  
20 owners may not reallocate the unused credit among the other owners.

21 (c) Application. – To be eligible for the tax credit provided in this section, the  
22 taxpayer must file an application for the credit with the Secretary on or before April 15 of  
23 the year following the calendar year in which the investment was made. The Secretary  
24 may grant extensions of this deadline, as the Secretary finds appropriate, upon the request  
25 of the taxpayer, except that the application may not be filed after September 15 of the  
26 year following the calendar year in which the investment was made. An application is  
27 effective for the year in which it is timely filed. The application shall be on a form  
28 prescribed by the Secretary and shall include any supporting documentation that the  
29 Secretary may require. If an investment for which a credit is applied for was paid for  
30 other than in money, the taxpayer shall include with the application a certified appraisal  
31 of the value of the property used to pay for the investment. The application for a credit  
32 for an investment made by a pass-through entity must be filed by the pass-through entity.

33 (d) Penalties. – The penalties provided in G.S. 105-236 apply in this ~~Division,~~  
34 Part."

35 Section 28.(a) G.S. 105-164.3(8b) is recodified as G.S. 105-164.3(8c) and reads as  
36 rewritten:

37 "**§ 105-164.3. Definitions.**

38 The following definitions apply in this Article, except when the context clearly  
39 indicates a different meaning:

40 ...  
41 ~~(8b)~~(8c) "Motor vehicle" means a vehicle that is designed primarily for use  
42 upon the highways and is either self-propelled or propelled by a self-  
43 propelled vehicle, but does not include:

- a. ~~A moped as defined in G.S. 20-4.01(27) (d1). moped.~~
- b. ~~Special mobile equipment as defined in G.S. 20-4.01(44). equipment.~~
- c. A tow dolly that is exempt from motor vehicle title and registration requirements under G.S. 20-51(10) or (11).
- d. A farm tractor or other implement of husbandry.
- e. A manufactured home, a mobile office, or a mobile classroom.
- f. Road construction or road maintenance machinery or equipment."

Section 28.(b) G.S. 105-164.3 is amended by adding the following new subdivisions in the appropriate alphabetical order:

"(8b) Moped. – A vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface.

...

(16b) Special mobile equipment. – Any of the following:

- a. A vehicle that has a permanently attached crane, mill, well-boring apparatus, ditch-digging apparatus, air compressor, electric welder, feed mixer, grinder, or other similar apparatus is driven on the highway only to get to and from a nonhighway job and is not designed or used primarily for the transportation of persons or property.
- b. A vehicle that has permanently attached special equipment and is used only for parade purposes.
- c. A vehicle that is privately owned, has permanently attached fire-fighting equipment, and is used only for fire-fighting purposes.
- d. A vehicle that has permanently attached playground equipment and is used only for playground purposes."

Section 28.(c) G.S. 20-4.01(21a) reads as rewritten:

"(21a) Moped. – A type of passenger vehicle as defined in G.S. 20-4.01(27). G.S. 105-164.3."

Section 28.(d) G.S. 20-4.01(27)d1. reads as rewritten:

"d1. ~~Moped. – A vehicle that has two or three wheels, no external shifting device, and a motor that does not exceed 50 cubic centimeters piston displacement and cannot propel the vehicle at a speed greater than 20 miles per hour on a level surface. Defined in G.S. 105-164.3."~~

Section 28.(e) G.S. 20-4.01(44) reads as rewritten:

"(44) Special Mobile Equipment. – Any of the following:

- a. ~~A vehicle that has a permanently attached crane, mill, well-boring apparatus, ditch-digging apparatus, air compressor, electric welder, feed mixer, grinder, or other similar apparatus, is~~

1                   ~~driven on the highway only to get to and from a nonhighway job,~~  
2                   ~~and is not designed or used primarily for the transportation of~~  
3                   ~~persons or property.~~

4                   b.     ~~A vehicle that has permanently attached special equipment and is~~  
5                   ~~used only for parade purposes.~~

6                   e.     ~~A vehicle that is privately owned, has permanently attached fire-~~  
7                   ~~fighting equipment, and is used only for fire fighting purposes.~~

8                   d.     ~~A vehicle that has permanently attached playground equipment~~  
9                   ~~and is used only for playground purposes.—Defined in G.S. 105-~~  
10                   ~~164.3."~~

11                   Section 29. G.S. 105-164.4(a)(4) reads as rewritten:

12     "**§ 105-164.4. Tax imposed on retailers.**

13                   (a) (Effective July 1, 1999) A privilege tax is imposed on a retailer at the following  
14                   percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The  
15                   general rate of tax is four percent (4%).

16                   ...

17                   (4)     Every person engaged in the business of operating a dry cleaning,  
18                   pressing, or hat-blocking establishment, a laundry, or any similar  
19                   business, engaged in the business of renting clean linen or towels or  
20                   wearing apparel, or any similar business, or engaged in the business of  
21                   soliciting cleaning, pressing, hat blocking, laundering or linen rental  
22                   business for any of these businesses, is considered a retailer under this  
23                   Article. A tax at the general rate of tax is levied on the gross receipts  
24                   derived by these retailers from services rendered in engaging in any of  
25                   the occupations or businesses named in this subdivision. The tax  
26                   imposed by this subdivision does not apply to receipts derived from ~~coin~~  
27                   ~~or token-operated~~ coin, token, or card-operated washing machines,  
28                   extractors, and dryers. The tax imposed by this subdivision does not  
29                   apply to gross receipts derived from services performed for resale by a  
30                   retailer that pays the tax on the total gross receipts derived from the  
31                   services."

32                   Section 30. G.S. 105-164.4(c) reads as rewritten:

33                   "(c)     Certificate of Registration. – Before a person may engage in business as a  
34                   retailer or a wholesale merchant, the person must obtain a certificate of registration from  
35                   the Department. To obtain a certificate of registration, a person must register with the  
36                   Department and pay fifteen dollars (\$15.00).

37                   A certificate of registration is valid unless it is revoked for failure to comply with the  
38                   provisions of this Article or becomes void. A certificate issued to a retailer who makes  
39                   taxable sales becomes void if, for a period of 18 months, the retailer files no returns or  
40                   files returns showing no sales."

41                   Section 31. G.S. 105-164.13(4d) reads as rewritten:

42                   "(4d)    The lease or rental of ~~burlap~~ tobacco sheets used in handling tobacco in  
43                   the warehouse and transporting tobacco to and from the warehouse."

1 Section 32.(a) G.S. 105-187.43 reads as rewritten:

2 **"§ 105-187.43. (Effective July 1, 1999) Payment of the tax.**

3 (a) ~~Monthly Return Payment.~~ – The tax imposed by this Article is payable monthly  
4 to the Secretary. A monthly tax payment is due by the last day of the month that follows  
5 the month in which the tax accrues. The tax imposed by this Article on piped natural gas  
6 delivered to a sales or transportation customer accrues when the gas is delivered. The tax  
7 payable on piped natural gas received by a person who has direct access to an interstate  
8 pipeline for consumption by that person accrues when the gas is received.

9 (b) Small Underpayments. – A person is not subject to interest on or penalties for  
10 an underpayment of a monthly amount due if the person timely pays at least ninety-five  
11 percent (95%) of the amount due and includes the underpayment with the next return the  
12 person files.

13 (c) Return. – A return is due quarterly. A quarterly return covers a calendar  
14 quarter and is due by the last day of the month that follows the quarter covered by the  
15 return."

16 Section 32.(b) G.S. 105-187.44 reads as rewritten:

17 **"§ 105-187.44. (Effective July 1, 1999) Distribution of part of tax proceeds to cities.**

18 (a) City Information. – A ~~monthly~~quarterly return filed under this Article must  
19 indicate the amount of tax attributable to the following:

20 (1) Piped natural gas delivered during the ~~month~~quarter to sales or  
21 transportation customers in each city in the State.

22 (2) Piped natural gas received during the ~~month~~quarter in each city in the  
23 State by persons who have direct access to an interstate gas pipeline and  
24 who receive the gas for their own consumption.

25 If a tax return does not state this information, the Secretary must determine how much of  
26 the tax proceeds are to be attributed to each city.

27 (b) Distribution. – Within 75 days after the end of each calendar quarter, the  
28 Secretary must distribute to the cities part of the tax proceeds collected under this Article  
29 during that quarter. The amount to be distributed to a city is one-half of the amount of  
30 tax attributable to that city for that quarter under subsection (a) of this section."

31 Section 33. G.S. 105-194 reads as rewritten:

32 **"§ 105-194. Death of donor within three years; time of assessment.**

33 ~~Where~~If a donor dies within three years after filing a return, gift taxes may be  
34 assessed at any time within ~~said~~those three years, or on or before the date of final  
35 settlement of the donor's State estate or inheritance taxes, whichever is later."

36 Section 34. G.S. 105-253(a) reads as rewritten:

37 "(a) Any officer, trustee, or receiver of any corporation or limited liability company  
38 required to file a report with the Secretary who has custody of funds of the corporation or  
39 company and who allows the funds to be paid out or distributed to the stockholders of the  
40 corporation or to the members of the company without having remitted to the Secretary  
41 any State taxes that are due is personally liable for the payment of the tax."

42 Section 35.(a) G.S. 105-275 is amended by adding a new subdivision to read:

43 "(41) Objects of art held by the North Carolina Art Society, Incorporated."

1 Section 35.(b) G.S. 140-15 reads as rewritten:

2 "~~§ 140 ♦ All gifts made to the North Carolina State Art Society, Incorporated, shall~~  
3 ~~be exempt from State gift and inheritance taxes, and objects of art held by~~  
4 ~~the Society shall be exempt from ad valorem taxes.~~"

5 Section 36. G.S. 105-449.37(a)(1a) reads as rewritten:

6 "**§ 105-449.37. Definitions; tax liability.**

7 (a) Definitions. – The following definitions apply in this Article:

8 ...

9 (1a) Motor vehicle. – A motor vehicle as defined in ~~G.S. 20-4.01(23)~~, G.S.  
10 105-164.3(8c), other than special mobile equipment as defined in ~~G.S.~~  
11 ~~20-4.01(44)~~. G.S. 105-164.3(16b)."

12 Section 37. G.S. 105-449.39 reads as rewritten:

13 "**§ 105-449.39. Credit for payment of motor fuel tax.**

14 Every motor carrier subject to the tax levied by this Article is entitled to a credit on its  
15 quarterly report for tax paid by the carrier on fuel purchased in the State. ~~A motor carrier~~  
16 ~~who files a quarterly report is entitled to a credit at a rate equal to~~ The amount of the credit is  
17 determined using the flat cents-per-gallon rate plus the variable cents-per-gallon rate of  
18 tax in effect during the quarter for which the credit is claimed. ~~A motor carrier who files an~~  
19 ~~annual report is entitled to a credit at a rate equal to the flat cents per gallon rate plus the average~~  
20 ~~of the two variable cents per gallon rates of tax in effect during the year for which the credit is~~  
21 ~~claimed.~~ covered by the report. To obtain a credit, the motor carrier must furnish evidence  
22 satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

23 If the amount of a credit to which a motor carrier is entitled for a ~~reporting period~~  
24 quarter exceeds the motor carrier's liability for that ~~reporting period,~~ quarter, the Secretary  
25 must refund the excess to the motor carrier."

26 Section 38. G.S. 105-449.42 reads as rewritten:

27 "**§ 105-449.42. Payment of tax.**

28 The tax levied by this Article is due when a motor carrier files a quarterly ~~or an annual~~  
29 report under G.S. 105-449.45. The amount of tax due ~~shall be~~ is calculated upon ~~on~~ the  
30 amount of ~~gasoline or other~~ motor fuel or alternative fuel used by the motor carrier in its  
31 operations within this State during the ~~reporting period~~ quarter covered by the report."

32 Section 39. G.S. 105-449.44(a) reads as rewritten:

33 "(a) Calculation. – The amount of ~~gasoline or other~~ motor fuel used ~~in the~~  
34 ~~operations of any motor carrier within this State shall be such proportion of the total~~  
35 ~~amount of such gasoline or other motor fuel used in its entire operations within and~~  
36 ~~without this State as the total number of miles traveled within this State bears to the total~~  
37 ~~number of miles traveled within and without this State.~~ or alternative fuel a motor carrier  
38 carries in its operations in this State for a reporting period is the ratio of the number of  
39 miles the motor carrier travels in this State during that period to the total number of miles  
40 the motor carrier travels inside and outside this State during that period, multiplied by the  
41 total amount of fuel the motor carrier uses in its operations inside and outside the State  
42 during that period."

43 Section 40. G.S. 105-449.45 reads as rewritten:

1 **"§ 105-449.45. Reports of carriers.**

2 (a) ~~Quarterly—Report.~~ – A motor carrier shall ~~must~~ report its operations to the  
3 Secretary on a quarterly basis unless ~~this subsection~~ subsection (b) of this section exempts  
4 the motor carrier from this requirement or ~~permits the motor carrier to report on a different~~  
5 ~~basis. A motor carrier is not required to file a quarterly report if:~~

6 (1) ~~All the motor carrier's operations during the quarter were made under a~~  
7 ~~temporary permit issued under G.S. 105-449.49.~~

8 (2) ~~The motor carrier is an intrastate motor carrier, as indicated on the~~  
9 ~~motor carrier's application for registration with the Secretary.~~

10 (3) ~~The motor carrier has been granted permission to file an annual report~~  
11 ~~under subsection (b).~~

12 requirement. A quarterly report covers a calendar quarter and is due by the last day in  
13 April, July, October, and January.

14 (b) Exemptions. – A motor carrier is not required to file a quarterly report if any of  
15 the following applies:

16 (1) All the motor carrier's operations during the quarter were made under a  
17 temporary permit issued under G.S. 105-449.49.

18 (2) The motor carrier is an intrastate motor carrier, as indicated on the  
19 motor carrier's application for registration with the Secretary.

20 ~~Annual Report.~~—~~The Secretary may authorize a motor carrier whose estimated~~  
21 ~~annual tax liability under this Article does not exceed two hundred dollars (\$200.00) to~~  
22 ~~file an annual report of its operations. The tax liability of a motor carrier that files an~~  
23 ~~annual report shall be computed at a rate equal to the flat cents per gallon rate plus the~~  
24 ~~average of the two cents per gallon rates in effect during the year for which the liability~~  
25 ~~is computed.~~

26 ~~An annual report covers a fiscal year beginning on July 1 and ending on the following~~  
27 ~~June 30 and is due by July 31 after the end of a fiscal year. To file an annual report, a~~  
28 ~~motor carrier must apply to the Secretary for permission to file on an annual basis. An~~  
29 ~~application must be submitted by the date set by the Secretary. Once granted permission,~~  
30 ~~a motor carrier may continue to file an annual report until notified by the Secretary to file~~  
31 ~~a quarterly report.~~

32 (c) Other Reports. – A motor carrier shall must file with the Secretary other reports  
33 concerning its operations that the Secretary requires.

34 (d) Penalties. – A motor carrier that fails to file a report under this section by the  
35 required date is subject to a penalty of fifty dollars (\$50.00)."

36 Section 41. G.S. 105-449.47 reads as rewritten:

37 **"§ 105-449.47. Registration of vehicles.**

38 (a) Requirement. – A motor carrier that is subject to the International Fuel Tax  
39 Agreement may not operate or cause to be operated in this State any vehicle listed in the  
40 definition of motor vehicle unless both the motor carrier and the motor vehicle are  
41 registered with the motor carrier's base state jurisdiction. A motor carrier that is not  
42 subject to the International Fuel Tax Agreement may not operate or cause to be operated  
43 in this State any vehicle listed in the definition of motor carrier-vehicle unless both the



1 motor carrier and the motor vehicle are registered with the Secretary for purposes of the  
2 tax imposed by this Article.

3 ~~Upon application, When the Secretary shall register registers a motor carrier and shall~~  
4 ~~carrier, the Secretary must issue at least one identification marker for each motor vehicle~~  
5 ~~operated by the motor carrier. Registrations and identification markers issued by the~~  
6 ~~Secretary are for a calendar year. The Secretary may renew a registration or an~~  
7 ~~identification marker without issuing a new registration or identification marker. All~~  
8 ~~identification markers issued by the Secretary remain the property of the State. The~~  
9 ~~Secretary may withhold or revoke a registration or an identification marker when a motor~~  
10 ~~carrier fails to comply with this Article, former Article 36 or 36A of this Subchapter, or~~  
11 ~~Article 36C or 36D of this Subchapter.~~

12 ~~A motor carrier must carry a copy of the its registration of a motor carrier shall be~~  
13 ~~carried in each motor vehicle operated by the motor carrier when the vehicle is in this~~  
14 ~~State. An identification marker shall be clearly displayed at all times and shall A motor~~  
15 ~~vehicle must clearly display an identification marker at all times. The identification~~  
16 ~~marker must be affixed to the vehicle for which it was issued in the place and manner~~  
17 ~~designated by the Secretary authority that issued it. Registrations and identification markers~~  
18 ~~required by this section shall be issued on a calendar year basis. The Secretary may renew a~~  
19 ~~registration or an identification marker without issuing a new registration or identification~~  
20 ~~marker. All identification markers issued by the Secretary remain the property of the State. The~~  
21 ~~Secretary may withhold or revoke a registration or an identification marker when a motor carrier~~  
22 ~~fails to comply with this Article or Article 36C or 36D of this Subchapter.~~

23 (b) Exemption. – This section does not apply to the operation of a vehicle that is  
24 registered in another state and is operated temporarily in this State by a public utility, a  
25 governmental or cooperative provider of utility services, or a contractor for one of these  
26 entities for the purpose of restoring utility services in an emergency outage."

27 Section 42. G.S. 105-449.57 reads as rewritten:

28 "**§ 105-449.57. Cooperative agreements between jurisdictions.**

29 (a) Authority. – The Secretary may enter into cooperative agreements with other  
30 jurisdictions for exchange of information in administering the tax imposed by this  
31 Article. No agreement, arrangement, declaration, or amendment to an agreement is  
32 effective until stated in writing and approved by the Secretary.

33 (b) Content. – An agreement may provide for determining the base state for motor  
34 carriers, records requirements, audit procedures, exchange of information, persons  
35 eligible for tax licensing, defining qualified motor vehicles, determining if bonding is  
36 required, specifying reporting requirements and periods, including defining uniform  
37 penalty and interest rates for late reporting, determining methods for collecting and  
38 forwarding of ~~gasoline or other~~ motor fuel carrier taxes and penalties to another  
39 jurisdiction, and ~~such any~~ other provisions ~~as that~~ will facilitate the administration of the  
40 agreement.

41 (c) Disclosure. – In accordance with G.S. 105-259, the Secretary may, as required  
42 by the terms of an agreement, forward to officials of another jurisdiction any information  
43 in the Department's possession relative to the use of ~~gasoline or other motor fuels~~ motor

1 fuel or alternative fuel by any motor carrier. The Secretary may disclose to officials of  
2 another jurisdiction the location of offices, motor vehicles, and other real and personal  
3 property of motor carriers.

4 (d) Audits. — An agreement may provide for each jurisdiction to audit the records  
5 of motor carriers based in the jurisdiction to determine if the ~~gasoline or other motor fuel~~  
6 taxes due each jurisdiction are properly reported and paid. Each jurisdiction ~~shall~~ must  
7 forward the findings of the audits performed on motor carriers based in the jurisdiction to  
8 each jurisdiction in which the carrier has taxable use of ~~gasoline or other motor fuels.~~ motor  
9 fuel or alternative fuel. For motor carriers not based in this State ~~who have taxable use of~~  
10 ~~gasoline or other motor fuels in this~~ State, the Secretary may utilize the audit findings  
11 received from another jurisdiction as the basis upon which to propose assessments of  
12 ~~gasoline or other motor fuel~~ taxes against the carrier as though the audit had been  
13 conducted by the Secretary. Penalties and interest ~~shall~~ must be assessed at the rates  
14 provided in the agreement.

15 No agreement entered into pursuant to this section may preclude the Department from  
16 auditing the records of any motor carrier covered by this Chapter.

17 The provisions of Article 9 of this Chapter apply to any assessment or order made  
18 under this section.

19 (e) Restriction. — The Secretary may not enter into any agreement that would  
20 increase or decrease taxes and fees imposed under Subchapter V of Chapter 105 of the  
21 General Statutes. ~~Statutes.~~ and any Any provision to the contrary is void."

22 Section 43. G.S. 105-449.52(b) reads as rewritten:

23 "(b) Hearing. — ~~Any person denying liability for a penalty imposed under~~  
24 ~~this section must pay the penalty under protest and apply to the Department of Revenue~~  
25 ~~for a hearing. Upon receiving a request for a hearing, the Secretary shall schedule a~~  
26 ~~hearing before a duly designated employee or agent of the Department within 30 days~~  
27 ~~after receipt of the request. If after the hearing the Department determines that the person~~  
28 ~~was not liable for the penalty, the amount collected shall be refunded. If after the hearing~~  
29 ~~the Department determines that the person was liable for the penalty, the person paying~~  
30 ~~the penalty may bring an action in the Superior Court of Wake County against the~~  
31 ~~Secretary of Revenue for refund of the penalty. No restraining order or injunction shall~~  
32 ~~issue from any court of the State to restrain or enjoin the collection of the penalty or to~~  
33 ~~permit the operation of the vehicle without payment of the penalty. The procedure set out~~  
34 ~~in G.S. 105-449.119 for protesting a penalty imposed under Article 36C, Part 6, of this~~  
35 Chapter applies to a penalty imposed under this section."

36 Section 44. G.S. 105-449.119 reads as rewritten:

37 "**§ 105-449.119. Hearing on civil penalty assessment.**

38 A person who denies liability for a penalty imposed under this Part must pay the  
39 penalty under protest and make a written demand to the Department of Revenue for a  
40 refund. The written demand must be made within 30 days after the penalty is ~~imposed.~~  
41 imposed and must explain why the person is not liable for the penalty. Upon receiving a  
42 demand for a refund, the Secretary ~~shall~~ must schedule a hearing on the matter before an  
43 employee or an agent of the Department. The hearing must be held within 30 days after

1 receiving the written demand for a refund. If, after the hearing, the Department  
2 determines that the person was not liable for the penalty, the amount collected ~~shall~~must  
3 be refunded. ~~If~~If, after the ~~hearing~~hearing, the Department determines that the person  
4 was liable for the penalty, the person paying the penalty may appeal the imposition of the  
5 penalty in accordance with G.S. 105-241.2, 105-241.3, and 105-241.4."

6 Section 45. G.S. 160A-31(e2), as enacted by S.L. 1999-19, as it applies to the  
7 Town of Huntersville, reads as rewritten:

8 "(e2) Annexation of property subject to annexation under subsection (e1) of this  
9 section shall become effective as to each tract of such property or such part thereof on the  
10 last day of the month in which that tract or part thereof becomes ineligible for  
11 classification pursuant to ~~G.S. 105-227.4~~G.S. 105-277.4 and no longer meets the  
12 requirements of subdivision (e1)(2) of this section. Until annexation of a tract or a part of  
13 a tract becomes effective pursuant to this subsection, the tract or part of a tract is not  
14 subject to taxation by the city under Article 12 of Chapter 105 of the General Statutes,  
15 nor is the tract or part of the tract entitled to services provided by the city. When  
16 annexation becomes effective pursuant to this subsection as to a tract or part of a tract,  
17 the city shall provide all required services upon payment of city taxes."

18 Section 46. This act does not affect the rights or liabilities of the State, a  
19 taxpayer, or another person arising under a statute amended or repealed by this act before  
20 the effective date of its amendment or repeal; nor does it affect the right to any refund or  
21 credit of a tax that accrued under the amended or repealed statute before the effective  
22 date of its amendment or repeal.

23 Section 47. Except as otherwise provided in this act, this act is effective when  
24 it becomes law.