

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1321

Short Title: Revenue Laws Technical Changes.

(Public)

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Sponsors: Representatives Gamble, Colton, Jarrell, Justus, Kerr, Lilley, Luebke, and Tallent.

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Referred to: Finance.

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May 27, 1992

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE TECHNICAL AND CLARIFYING CHANGES TO THE  
3 REVENUE LAWS AND RELATED STATUTES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 105-102.6 reads as rewritten:

6 **"§ 105-102.6. Producers of newsprint publications.**

7 (a) Purpose. The purpose of this section is to provide an incentive for the use of  
8 recycled newsprint.

9 (b) Definitions. The following definitions apply in this section:

10 (1) Net tonnage of newsprint consumed. – The weight in metric tons of all  
11 newsprint ~~consumed~~acquired by a producer, less the weight in metric  
12 tons of any acquired newsprint ~~consumed~~diverted by the producer ~~diverted~~  
13 diverts from solid waste ~~by the producer.~~waste.

14 (2) Newsprint. – Uncoated paper, whether supercalendered or machine  
15 finished, made primarily from mechanical wood pulp combined with  
16 some chemical wood pulp, weighing between 24.5 and 35 pounds for  
17 500 sheets of paper 2 feet by 3 feet in size, and having a brightness of  
18 less than 60.

19 (3) Postconsumer waste paper. – Paper products, generated by a business  
20 or consumer, that have served their intended end uses and have been  
21 separated or diverted from solid waste.

1 (4) Producer. – A person engaged in the business of producing  
2 publications printed on newsprint who acquires and uses newsprint for  
3 this business.

4 (5) Recycled content percentage. – The percentage by weight of the total  
5 net tonnage of newsprint consumed by the producer that is  
6 postconsumer waste paper.

7 (c) Minimum Recycled Content Percentage. The recycled content percentage of  
8 ~~every person engaged in the business of publishing or printing publications printed on~~  
9 newsprint consumed by a producer shall equal or exceed the following minimum  
10 recycled content percentages:

11 During 1991 and 1992, twelve percent (12%).

12 During 1993, fifteen percent (15%).

13 During 1994, twenty percent (20%).

14 During 1995, twenty-five percent (25%).

15 During 1996, thirty percent (30%).

16 During 1997, thirty-five percent (35%).

17 After 1997, forty percent (40%).

18 (d) Tax. Every producer shall apply for and obtain from the Secretary of  
19 Revenue a newsprint producer tax reporting number. In addition, each producer whose  
20 recycled content percentage for a calendar quarter is less than the applicable minimum  
21 recycled content percentage provided in subsection (c) for a calendar quarter shall,  
22 within 10 days after the last day of the quarter, report to the Secretary the amount in  
23 metric tons by which (i) the applicable minimum recycled content percentage multiplied  
24 by the net tonnage of newsprint consumed by the producer in the preceding quarter  
25 exceeds (ii) the actual tonnage of postconsumer waste paper consumed by the producer  
26 during the preceding quarter, and shall pay a tax on the amount reported at the rate of  
27 fifteen dollars (\$15.00) per ton. This tax is due when the report is filed. No county,  
28 city, or town may impose a license tax on the business taxed under this section.

29 (e) Exemption. The tax levied in this section does not apply to an amount  
30 calculated pursuant to subsection (d) to the extent the amount is attributable solely to the  
31 producer's inability to obtain sufficient recycled content newsprint because (i) recycled  
32 content newsprint was not available at a price comparable to the price of virgin  
33 newsprint; (ii) recycled content newsprint of a quality comparable to virgin newsprint  
34 was not available; or (iii) recycled content newsprint was not available within a  
35 reasonable period of time during the reporting period. In order to claim the exemption  
36 provided in this subsection, a producer must certify to the Secretary of Revenue:

37 (1) The amount of virgin newsprint consumed by the producer during the  
38 reporting period solely for one of the reasons listed above.

39 (2) That the producer attempted to obtain recycled content newsprint from  
40 every manufacturer of recycled content newsprint that offered to sell  
41 recycled content newsprint to the producer within the preceding 12  
42 months.

1           (3) The name, address, and telephone number of each manufacturer  
2           contacted, including the company name and the name of the  
3           company's individual representative or employee.

4           (f) Use of Proceeds. The Secretary of Revenue shall, on a quarterly basis, credit  
5           the net proceeds of the tax imposed by this section to the Solid Waste Management  
6           Trust Fund created in G.S. 130A-309.12."

7           Sec. 2. G.S. 105-134.6 reads as rewritten:

8           "**§ 105-134.6. Adjustments to taxable income.**

9           (a) S Corporations. – The pro rata share of each shareholder in the income  
10          attributable to the State of an S Corporation shall be adjusted as provided in G.S. 105-  
11          130.5. The pro rata share of each resident shareholder in the income not attributable to  
12          the State of an S Corporation shall be subject to the adjustments provided in subsections  
13          (b) and (c) of this section.

14          (b) Deductions. – The following deductions from taxable income shall be  
15          made in calculating North Carolina taxable income, to the extent each item is included  
16          in gross income:

17           (1) Interest upon the obligations of (i) the United States or its possessions,  
18           (ii) this State or a political subdivision of this State, or (iii) a nonprofit  
19           educational institution organized or chartered under the laws of this  
20           State.

21           (2) Interest upon obligations and gain from the disposition of obligations  
22           to the extent the interest or gain is exempt from tax under the laws of  
23           this State.

24           (3) Benefits received under Title II of the Social Security Act and amounts  
25           received from retirement annuities or pensions paid under the  
26           provisions of the Railroad Retirement Act of 1937.

27           (4) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 1002, s. 2.

28           (5) Refunds of ~~State, state,~~ local, and foreign income taxes included in the  
29           taxpayer's gross income.

30           (6) a. An amount, not to exceed four thousand dollars (\$4,000), equal to  
31           the sum of the amount calculated in subparagraph b. plus the amount  
32           calculated in subparagraph c.

33           b. The amount calculated in this subparagraph is the amount  
34           received during the taxable year from one or more state, local,  
35           or federal government retirement plans.

36           c. The amount calculated in this subparagraph is the amount  
37           received during the taxable year from one or more retirement  
38           plans other than state, local, or federal government retirement  
39           plans, not to exceed a total of two thousand dollars (\$2,000) in  
40           any taxable year.

41           d. In the case of a married couple filing a joint return where both  
42           spouses received retirement benefits during the taxable year, the  
43           maximum dollar amounts provided in this subdivision for

1 various types of retirement benefits apply separately to each  
2 spouse's benefits.

- 3 (7) The amount of inheritance tax attributable to an item of income in  
4 respect of a decedent required to be included in gross income under the  
5 Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-  
6 134.7. The amount of inheritance tax attributable to an item of income  
7 in respect of a decedent is (i) the amount by which the inheritance tax  
8 paid under Article 1 of this Chapter on property transferred to a  
9 beneficiary by a decedent exceeds the amount of inheritance tax that  
10 would have been payable by the beneficiary if the item of income in  
11 respect of a decedent had not been included in the property transferred  
12 to the beneficiary by the decedent, (ii) multiplied by a fraction, the  
13 numerator of which is the amount required to be included in gross  
14 income for the taxable year under the Code, adjusted as provided in  
15 G.S. 105-134.5, 105-134.6, and 105-134.7, and the denominator of  
16 which is the total amount of income in respect of a decedent  
17 transferred to the beneficiary by the decedent. For an estate or trust,  
18 the deduction allowed by this subdivision shall be computed by  
19 excluding from the gross income of the estate or trust the portion, if  
20 any, of the items of income in respect of a decedent that are properly  
21 paid, credited, or to be distributed to the beneficiaries during the  
22 taxable year.

23 The Secretary of Revenue may provide to a beneficiary of an item  
24 of income in respect of a decedent any information contained on an  
25 inheritance tax return that the beneficiary needs to compute the  
26 deduction allowed by this subdivision.

- 27 (8) The amount by which the taxpayer's deductions allowed under the  
28 Code were reduced, and the amount of the taxpayer's deductions that  
29 were not allowed, because the taxpayer elected a federal tax credit in  
30 lieu of a deduction, to the extent that a similar credit is not allowed by  
31 this Division for the amount.

32 (c) Additions. – The following additions to taxable income shall be made in  
33 calculating North Carolina taxable income, to the extent each item is not included in  
34 gross income:

- 35 (1) Interest upon the obligations of states, other than this State, and their  
36 political subdivisions.
- 37 (2) Any amount allowed as a deduction from gross income under the Code  
38 that is taxed under the Code by a separate tax other than the tax  
39 imposed in section 1 of the Code.
- 40 (3) Any amount deducted from gross income under section 164 of the  
41 Code as ~~State~~, ~~state~~, local, or foreign income tax to the extent that the  
42 taxpayer's total itemized deductions deducted under the Code for the  
43 taxable year exceed the standard deduction allowable to the taxpayer  
44 under the Code reduced by the amount by which the taxpayer's

allowable standard deduction has been increased under section 63(c)(4) of the Code.

(4) The amount by which the taxpayer's standard deduction has been increased for inflation under section 63(c)(4) of the Code and the amount by which the taxpayer's personal exemptions have been increased for inflation under section 151(d)(4) of the Code. For the purpose of this subdivision, if the taxpayer's personal exemptions have been reduced by the applicable percentage under section 151(d)(3) of the Code, the amount by which the personal exemptions have been increased for inflation is also reduced by the applicable percentage.

(5) The fair market value, up to a maximum of one hundred thousand dollars (\$100,000), of the donated property interest for which the taxpayer claims a credit for the taxable year under G.S. 105-151.12 and the market price of the gleaned crop for which the taxpayer claims a credit for the taxable year under G.S. 105-151.14."

Sec. 3. G.S. 105-164.11 reads as rewritten:

**"§ 105-164.11. Excessive and erroneous collections.**

When the tax collected for any period is in excess of the total amount ~~which that~~ should have been collected, the total amount collected must be paid over to the Secretary ~~less the compensation to be allowed the retailer as hereinafter set forth.~~ Secretary. When tax is collected for any period on exempt or nontaxable sales the tax erroneously collected shall be remitted to the Secretary and no refund ~~thereof~~ shall be made to a taxpayer unless the purchaser has received credit for or has been refunded the amount of tax erroneously charged. This provision shall be construed with other provisions of this Article and given effect so as to result in the payment to the Secretary of the total amount collected as tax if it is in excess of the amount ~~which that~~ should have been collected."

Sec. 4. G.S. 105-188(g) reads as rewritten:

"(g) A donor ~~shall be~~ is entitled to a total exemption of one hundred thousand dollars (\$100,000) to be deducted from gifts made to donees named in subdivision ~~(1) of subsection (f), (f)(1),~~ less the sum of amounts claimed and allowed as an exemption in prior calendar years. The exemption, at the option of the donor, may be taken in its entirety in a single ~~year, year~~ or may be spread over a period of years. When this exemption has been exhausted, no further exemption is allowable. When the exemption or any ~~portion thereof~~ part of the exemption is applied to gifts to more than one donee in any one calendar year, ~~said the~~ exemption shall be apportioned against ~~said the~~ gifts in the same ratio as the gross value of the gifts to each donee is to the total value of ~~said all the gifts made~~ in the calendar year in which said gifts are made. ~~year.~~ No exemption ~~shall be is~~ allowed to a donor for gifts made to donees named in ~~subdivisions (2) and (3) of subsection (f),~~ subdivision (f)(2) or (f)(3)."

Sec. 5. G.S. 105-203 reads as rewritten:

**"§ 105-203. Shares of stock.**

All shares of stock (including shares and units of ownership of mutual funds, investment trusts, and investment funds) owned by residents of this State or having a

1 business, commercial, or taxable situs in this State on December 31 of each year, with  
2 the exception herein provided, shall be subject to an annual tax, which is hereby levied,  
3 of twenty-five cents (25¢) on every one hundred dollars (\$100.00) of the total fair  
4 market value of the stock on December 31 of each year less the proportion of the value  
5 that is equal to:

6 (1) In the case of a taxpayer that is a corporation, the proportion of the  
7 dividends upon the stock deductible by the taxpayer in computing its  
8 income tax liability under G.S. 105-130.7 without regard to the fifteen  
9 thousand dollar (\$15,000) limitation under G.S. 105-130.7; and

10 (2) In the case of a taxpayer that is not a corporation, the proportion of the  
11 dividends upon the stock that would be deductible by the taxpayer, if  
12 the taxpayer were a corporation, in computing its income tax liability  
13 under the provisions of G.S. 105-130.7(1),(2),(3), ~~and (3a), (3a), and~~  
14 (5), without regard to the fifteen thousand dollar (\$15,000) limitation  
15 under G.S. 105-130.7.

16 ~~The tax herein levied shall~~ This tax does not apply to shares of stock in building and  
17 loan associations or savings and loan associations ~~which pay a tax as levied that pay a tax~~  
18 under Article 8D of ~~Chapter 105 of the General Statutes, this Chapter,~~ nor to shares of  
19 stock owned by any corporation ~~which that~~ has its commercial domicile in North  
20 Carolina, where the corporation owns more than fifty percent (50%) of the outstanding  
21 voting stock.

22 ~~The tax herein levied shall~~ This tax does not apply to units of ownership in an  
23 investment trust, the corpus of which is composed (i) entirely of obligations of this  
24 State or (ii) entirely of obligations of the United States and of this State, at least eighty  
25 percent (80%) of the fair market value of which represents obligations of this State. For  
26 the purpose of this paragraph, 'State' includes the State of North Carolina, political  
27 subdivisions of this State, and agencies of ~~such these~~ these governmental units; 'United States'  
28 includes the United States and its possessions, and the District of Columbia;  
29 'obligations' includes bonds, ~~notes notes,~~ and other evidences of debt. In order for the  
30 exemption provided ~~for~~ in this paragraph to apply, ~~it shall be the duty of the trustees of an~~  
31 investment trust ~~to provide to~~ must provide the Secretary of Revenue, in ~~form satisfactory~~  
32 ~~to him and the form required by the Secretary,~~ not later than December 31 of the year  
33 with respect to which the exemption applies, information sufficient to establish the  
34 applicability of this exemption.

35 Indebtedness incurred directly for the purchase of shares of stock may be deducted  
36 from the total value of those ~~shares; provided, shares if~~ the specific shares of stock so  
37 purchased are pledged as collateral to secure the indebtedness; ~~provided further, that~~  
38 however, only so much of the indebtedness may be deducted as is in the same  
39 proportion as the taxable value of the shares of stock is to the total value of the shares of  
40 stock."

41 Sec. 6. G.S. 105-213(a) reads as rewritten:

42 "(a) There is annually appropriated from the General Fund to counties and  
43 municipalities the amount of revenue collected under this Article during the 1989-90  
44 fiscal year, plus an amount equal to forty percent (40%) of the tax collected on accounts

1 receivable during the 1989-90 fiscal year and less an amount equal to the costs during  
2 the preceding fiscal year of:

- 3 (1) Refunds made during the fiscal year of taxes levied under this Article.
- 4 (2) The Department of Revenue to collect and administer the taxes levied  
5 under this Article.
- 6 (3) The Department of Revenue in performing the duties imposed by  
7 Article 15 of this Chapter.
- 8 (4) The Property Tax Commission.
- 9 (5) The Institute of Government in operating a training program in  
10 property tax appraisal and assessment.
- 11 (6) The personnel and operations provided by the Department of State  
12 Treasurer for the Local Government Commission.

13 The appropriation shall be distributed by August 30 of each year. The appropriation  
14 shall be included in the Current Operations Appropriations Act.

15 The appropriation shall be allocated among the counties in proportion to the amount  
16 of taxes collected under this Article in each county during the preceding fiscal year.  
17 The Secretary of Revenue shall keep a separate record by counties of the taxes collected  
18 under this Article. The Secretary shall allocate the amount appropriated under this  
19 section to the counties according to the county in which the taxes were collected. The  
20 amounts so allocated to each county shall in turn be allocated between the county and  
21 the municipalities in the county in proportion to the total amount of ad valorem taxes  
22 levied by each during the fiscal year preceding the distribution. In dividing these  
23 amounts between each county and its municipalities, the Secretary shall treat taxes  
24 levied by a merged school administrative unit described in G.S. 115C-513 in a part of  
25 the unit located in a county as taxes levied by the county in which that part is located.  
26 After making these allocations, the Secretary of Revenue shall certify to the State  
27 Controller and to the State Treasurer the amount to be distributed to each county and  
28 municipality in the State. The State Controller shall then issue a warrant on the State  
29 Treasurer to each county and municipality in the amount certified. The amount based  
30 on forty percent (40%) of the tax collected on accounts receivable shall be drawn from  
31 the Local Government Tax Reimbursement Reserve and the amount based on the ~~net~~  
32 amount of revenue collected under this Article shall be drawn from the Local  
33 Government Tax Sharing Reserve.

34 For the purpose of computing the distribution of the intangibles tax to any county  
35 and the municipalities located in the county for any year with respect to which the  
36 property valuation of a public service company is the subject of an appeal pursuant to  
37 the provisions of the Machinery Act, or to applicable provisions of federal law, and the  
38 Department of Revenue is restrained by operation of law or by a court of competent  
39 jurisdiction from certifying such valuation to the county and municipalities therein, the  
40 Department shall use the last property valuation of such public service company which  
41 has been so certified in order to determine the ad valorem tax levies applicable to such  
42 public service company in the county and the municipalities therein.

43 The chairman of each board of county commissioners and the mayor of each  
44 municipality shall report to the Secretary of Revenue information requested by the

1 Secretary to enable the Secretary to allocate the amount appropriated by this section. If  
2 a county or municipality fails to make a requested report within the time allowed, the  
3 Secretary may disregard the county or municipality in allocating the amount  
4 appropriated by this section. The amount distributed to each county and municipality  
5 shall be used by the county or municipality in proportion to property tax levies made by  
6 it for the various funds and activities of the county or municipality, unless the county or  
7 municipality has pledged the amount to be distributed to it under this section in payment  
8 of a loan agreement with the North Carolina Solid Waste Management Capital Projects  
9 Financing Agency. A county or municipality that has pledged amounts distributed  
10 under this section in payment of a loan agreement with the Agency may apply the  
11 amount the loan agreement requires."

12 Sec. 7. G.S. 105-228.5A reads as rewritten:

13 **"§ 105-228.5A. Credit against gross premium tax for assessments paid to the**  
14 **Insurance Guaranty Association and the Life and Accident and Health**  
15 **Insurance Guaranty Association.**

16 (a) The following definitions apply in this section:

- 17 (1) Assessment. – An assessment as described in G.S. 58-48-35 or an  
18 assessment as described in ~~G.S. 58-62-40.~~ G.S. 58-62-41.  
19 (2) Association. – The North Carolina Insurance Guaranty Association  
20 created under G.S. 58-48-25 or the North Carolina Life and Accident  
21 ~~and Health~~ Insurance Guaranty Association created under ~~G.S. 58-62-~~  
22 ~~25.~~ G.S. 58-62-26.  
23 (3) Commissioner. – Commissioner of Insurance.  
24 (4) Member insurer. – A member insurer as defined in G.S. 58-48-20 or a  
25 member insurer as defined in ~~G.S. 58-62-20.~~ G.S. 58-62-16.

26 (b) A member insurer who pays an assessment is allowed as a credit against the  
27 tax imposed under G.S. 105-228.5 an amount equal to twenty percent (20%) of the  
28 amount of the assessment in each of the five taxable years following the year in which  
29 the assessment was paid. In the event a member insurer ceases doing business, all  
30 assessments for which it has not taken a credit under this section may be credited  
31 against its premium tax liability for the year in which it ceases doing business. The  
32 amount of the credit allowed by this section may not exceed the member insurer's  
33 premium tax liability for the taxable year.

34 (c) Any sums that are acquired by refund, under either G.S. 58-48-35 or ~~G.S. 58-~~  
35 ~~62-40,~~ G.S. 58-62-41, from the Association by member insurers, and that have  
36 previously been offset against premium taxes as provided in subsection (b) of this  
37 section, shall be paid by the member insurers to this State in the manner required by the  
38 Commissioner. The Association shall notify the Commissioner that the refunds have  
39 been made."

40 Sec. 8. G.S. 105-228.24 reads as rewritten:

41 **"§ 105-228.24. Tax limitations.**

42 (a) The taxes levied in this Article are in lieu of all other taxes except:

- 43 (1) Ad valorem taxes imposed upon real property and tangible personal  
44 ~~property;~~ property.

1 (2) Ad valorem taxes imposed upon intangible personal property under  
2 G.S. ~~105-199, 105-200, 105-204 and 105-205~~; and 105-204.

3 (3) Sales and use taxes levied by the State or any of its taxing units.

4 (b) Counties, ~~cities~~-cities, and towns may not levy a license tax on a savings and  
5 loan association subject to taxation under this Article."

6 Sec. 9. G.S. 105-236(11) reads as rewritten:

7 "(11) Any violation of ~~the provisions of this Subchapter, Subchapter V of~~  
8 ~~Chapter 105 or Chapter 18B of the General Statutes shall be deemed~~  
9 Subchapter I, V, or VIII of this Chapter or of Article 3 of Chapter  
10 119 of the General Statutes is considered an act committed in part at  
11 the office of the Secretary of Revenue in Raleigh. The certificate of  
12 the Secretary of Revenue to the effect that a tax has not been paid, that  
13 a return has not been filed, or ~~that~~ information has not been supplied,  
14 as required by ~~or under the provisions of this Subchapter, or by~~  
15 ~~Subchapter V of Chapter 105 or Chapter 18B of the General Statutes, shall~~  
16 ~~be law, is~~ **prima facie** evidence that ~~such~~the tax has not been paid,  
17 ~~that such~~the return has not been filed ~~or that such~~filed, or the  
18 information has not been supplied.

19 The term 'person' as used in this section includes an officer or  
20 employee of a corporation, or a member or employee of a partnership  
21 who as ~~such~~-officer, employee, or member is under a duty to perform  
22 the act in respect to which the violation occurs."

23 Sec. 10. G.S. 105-237.1(a) reads as rewritten:

24 "(a) The Secretary of Revenue, with the approval of the Attorney General, is  
25 authorized to compromise the amount of liability of any taxpayer for taxes due under  
26 ~~Subchapters I or V of this Chapter or under Chapter 18B of the General Statutes~~ Subchapter I,  
27 V, or VIII of this Chapter or under Article 3 of Chapter 119 of the General Statutes and  
28 to accept in full settlement of ~~such~~the liability a lesser amount than that asserted to be  
29 due when in the opinion of the Secretary and the Attorney General ~~such~~the compromise  
30 settlement is in the best interest of the State. When made other than in the course of  
31 litigation in the courts of the State on an appeal from an administrative determination or  
32 in a civil action brought to recover from the Secretary, the basis for ~~such~~the  
33 compromise must also conform to the conditions set out in this section. ~~Such~~The  
34 compromise settlement may be made only after a final administrative or judicial  
35 determination of the liability of the taxpayer.

36 ~~Such a~~A compromise settlement may be made only ~~upon a finding that~~if one or  
37 more of the following findings is made:

38 (1) There is a reasonable doubt as to the amount of the liability of the  
39 taxpayer under the law and the ~~facts~~or facts.

40 (2) The taxpayer is insolvent and the Secretary probably could not  
41 otherwise collect an amount equal to or in excess of the amount  
42 offered in ~~compromise~~or compromise.

43 (3) Collection of a greater amount than that offered in compromise  
44 ~~settlement~~is improbable, and the funds or a substantial portion of the

1            ~~funds offered in the settlement settlement, or a substantial portion thereof,~~  
2            ~~come from sources from which the Secretary could not otherwise~~  
3            ~~collect; or collect.~~

- 4            (4) A federal tax assessment arising out of the same facts has been  
5            compromised with the federal government on the same or a similar  
6            basis as that proposed to the State and the Secretary could probably not  
7            collect an amount equal to or in excess of that offered in compromise.

8            For the purposes of this section a taxpayer may be considered insolvent only if (i)  
9            there is an established status of insolvency by either a judicial declaration of a  
10          status necessarily or ordinarily involving insolvency or by a legal proceeding in which  
11          the insolvency of the taxpayer would ordinarily be determined or ~~thereby be made~~  
12          evident or ~~if (ii) it is plain and indisputable that the taxpayer is clearly insolvent and will~~  
13          remain so in the reasonable future. Whenever a compromise is made by the Secretary  
14          pursuant to this ~~section, section and the unpaid amount of the tax assessed is one~~  
15          hundred dollars (\$100.00) or more, the Secretary shall place there shall be placed on file  
16          in the office of the Secretary a written opinion, signed by the Secretary and the Attorney  
17          General, setting forth the amount of tax or additional tax assessed, the amount actually  
18          paid in accordance with the terms of the compromise, and a summary of the facts and  
19          reasons upon which acceptance of the compromise is based. ~~based, provided, however,~~  
20          ~~that such opinion shall not be required with respect to the compromise of any taxpayer's~~  
21          ~~liability where the unpaid amount of tax assessed (including interest, penalty and additional~~  
22          ~~tax) is less than one hundred dollars (\$100.00)."~~

23            Sec. 11. G.S. 105-242(a)(1) reads as rewritten:

- 24            "(1) The Secretary may issue a warrant or an order under the Secretary's  
25            hand and official seal, directed to the sheriff of any county of the State,  
26            commanding him to levy upon and sell the real and personal property  
27            of the taxpayer found within the county for the payment of the tax,  
28            including penalties and interest, and the cost of executing the warrant  
29            and to return to the Secretary the money collected, within a time to be  
30            specified in the warrant, not less than 60 days from the date of the  
31            warrant; the sheriff upon receipt of the warrant shall proceed in all  
32            respects with like effect and in the same manner prescribed by law in  
33            respect to executions issued against property upon judgments of a  
34            court of record, and shall be entitled to the same fees for his services in  
35            executing the warrant, to be collected in the same manner."

36            Sec. 12. G.S. 105-242(b) reads as rewritten:

- 37            "(b) Bank deposits, rents, salaries, wages, and all other choses in action or  
38            property incapable of manual levy or delivery, including property held in the Escheat  
39            Fund, hereinafter called the intangible, belonging, owing, or to become due to any  
40            taxpayer subject to any of the provisions of this Subchapter, or which has been  
41            transferred by such taxpayer under circumstances which would permit it to be levied  
42            upon if it were tangible, shall be subject to attachment or garnishment as herein  
43            provided, and the person owing said intangible, matured or unmatured, or having same  
44            in his possession or control, hereinafter called the garnishee, shall become liable for all

1 sums due by the taxpayer under this Subchapter to the extent of the amount of the  
2 intangible belonging, owing, or to become due to the taxpayer subject to the setoff of  
3 any matured or unmatured indebtedness of the taxpayer to the garnishee; provided,  
4 however, the garnishee shall not become liable for any sums represented by or held  
5 pursuant to any negotiable instrument issued and delivered by the garnishee to the  
6 taxpayer and negotiated by the taxpayer to a bona fide holder in due course, and  
7 whenever any sums due by the taxpayer and subject to garnishment are so held or  
8 represented, the garnishee shall hold such sums for payment to the Secretary of Revenue  
9 upon the garnishee's receipt of such negotiable instrument, unless such instrument is  
10 presented to the garnishee for payment by a bona fide holder in due course in which  
11 event such sums may be paid in accordance with such instrument to such holder in due  
12 course. To effect such attachment or garnishment the Secretary of Revenue shall serve  
13 or cause to be served upon the taxpayer and the garnishee a notice as hereinafter  
14 provided, which notice may be served by any deputy or employee of the Secretary of  
15 Revenue or by any officer having authority to serve summonses or may be served in any  
16 manner provided in Rule 4 of the North Carolina Rules of Civil Procedure. The notice  
17 shall:

- 18 (1) Show the name of the taxpayer, and if known his Social Security  
19 number or federal tax identification number and his address;
- 20 (2) Show the nature and amount of the tax, and the interest and penalties  
21 thereon, and the year or years for which the same were levied or  
22 assessed, and
- 23 (3) Be accompanied by a copy of this subsection, and thereupon the  
24 procedure shall be as follows:

25 If the garnishee has no defense to offer or no setoff against the taxpayer, he shall  
26 within 10 days after service of said notice, answer the same by sending to the Secretary  
27 of Revenue by registered or certified mail a statement to that effect, and if the amount  
28 due or belonging to the taxpayer is then due or subject to his demand, it shall be  
29 remitted to the Secretary with said statement, but if said amount is to mature in the  
30 future, the statement shall set forth that fact and the same shall be paid to the Secretary  
31 upon maturity, and any payment by the garnishee hereunder shall be a complete  
32 extinguishment of any liability therefor on his part to the taxpayer. If the garnishee has  
33 any defense or setoff, he shall state the same in writing under oath, and, within 10 days  
34 after service of said notice, shall send two copies of said statement to the Secretary by  
35 registered or certified mail; if the Secretary admits such defense or setoff, he shall so  
36 advise the garnishee in writing within 10 days after receipt of such statement and the  
37 attachment or garnishment shall thereupon be discharged to the amount required by  
38 such defense or setoff, and any amount attached or garnished hereunder which is not  
39 affected by such defense or setoff shall be remitted to the Secretary as above provided  
40 in cases where the garnishee has no defense or setoff, and with like effect. If the  
41 Secretary shall not admit the defense or setoff, he shall set forth in writing his objections  
42 thereto and shall send a copy thereof to the garnishee within 10 days after receipt of the  
43 garnishee's statement, or within such further time as may be agreed on by the garnishee,  
44 and at the same time he shall file a copy of said notice, a copy of the garnishee's

1 statement, and a copy of his objections thereto in the superior court of the county where  
2 the garnishee resides or does business where the issues made shall be tried as in civil  
3 actions.

4 If judgment is entered in favor of the Secretary of Revenue by default or after  
5 hearing, the garnishee shall become liable for the taxes, interest and penalties due by the  
6 taxpayer to the extent of the amount over and above any defense or setoff of the  
7 garnishee belonging, owing, or to become due to the taxpayer, but payments shall not be  
8 required from amounts which are to become due to the taxpayer until the maturity  
9 thereof, nor shall more than ~~10 percent~~ ten percent (10%) of any taxpayer's salary or  
10 wages be required to be paid hereunder in any one month. The garnishee may satisfy  
11 said judgment upon paying said amount, and if he fails to do so, execution may issue as  
12 provided by law. From any judgment or order entered upon such hearing either the  
13 Secretary of Revenue or the garnishee may appeal as provided by law. If, before or  
14 after judgment, adequate security is filed for the payment of said taxes, interest,  
15 penalties, and costs, the attachment or garnishment may be released or execution stayed  
16 pending appeal, but the final judgment shall be paid or enforced as above provided. The  
17 taxpayer's sole remedies to question his liability for said taxes, interest, and penalties  
18 shall be those provided in this Subchapter, as now or hereafter amended or  
19 supplemented. If any third person claims any intangible attached or garnished  
20 hereunder and his lawful right thereto, or to any part thereof, is shown to the Secretary,  
21 he shall discharge the attachment or garnishment to the extent necessary to protect such  
22 right, and if such right is asserted after the filing of said copies as aforesaid, it may be  
23 established by interpleader as now or hereafter provided by law in cases of attachment  
24 and garnishment. In case such third party has no notice of proceedings hereunder, he  
25 shall have the right to file his petition under oath with the Secretary at any time within  
26 12 months after said intangible is paid to him and if the Secretary finds that such party  
27 is lawfully entitled thereto or to any part thereof, he shall pay the same to such party as  
28 provided for refunds by ~~G.S. 105-267.1~~, G.S. 105-266.1, and if such payment is denied,  
29 said party may appeal from the determination of the Secretary under the provisions of  
30 G.S. 105-241.4; provided, that in taking an appeal to the superior court, said party may  
31 appeal either to the Superior Court of Wake County or to the superior court of the  
32 county wherein he resides or does business. The intangibles of a taxpayer shall be paid  
33 or collected hereunder only to the extent necessary to satisfy said taxes, interest,  
34 penalties, and costs. Except as hereinafter set forth, the remedy provided in this section  
35 shall not be resorted to unless a warrant for collection or execution against the taxpayer  
36 has been returned unsatisfied: Provided, however, if the Secretary is of opinion that the  
37 only effective remedy is that herein provided, it shall not be necessary that a warrant for  
38 collection or execution shall be first returned unsatisfied, and in no case shall it be a  
39 defense to the remedy herein provided that a warrant for collection or execution has not  
40 been first returned unsatisfied.

41 This subsection shall be applicable with respect to the wages, salary or other  
42 compensation of officials and employees of this State and its agencies and  
43 instrumentalities, officials and employees of political subdivisions of this State and their  
44 agencies and instrumentalities, and also officials and employees of the United States

1 and its agencies and instrumentalities insofar as the same is permitted by the  
2 Constitution and laws of the United States. In the case of State or federal employees,  
3 the notice shall be served upon such employee and upon the head or chief fiscal officer  
4 of the department, agency, instrumentality or institution by which the taxpayer is  
5 employed. In case the taxpayer is an employee of a political subdivision of the State,  
6 the notice shall be served upon such employee and upon the chief fiscal officer, or any  
7 officer or person charged with making up the payrolls, or disbursing funds, of the  
8 political subdivision by which the taxpayer is employed. Such head or chief officer or  
9 fiscal officer or other person as specified above shall thereafter, subject to the  
10 limitations herein provided, make deductions from the salary or wages due or to become  
11 due the taxpayer and remit same to the Secretary until the tax, penalty, interest and costs  
12 allowed by law are fully paid. Such deductions and remittances shall, **pro tanto**,  
13 constitute a satisfaction of the salary or wages due the taxpayer."

14 Sec. 13. G.S. 105-251.1 is repealed.

15 Sec. 14. G.S. 105-253(c) is repealed.

16 Sec. 15. G.S. 105-256(c)(3) reads as rewritten:

17 "(3) Upon request, one copy to each entity and official to which a copy of  
18 the reports of the Appellate Division of the General Court of Justice  
19 ~~are~~is furnished under G.S. 7A-343.1."

20 Sec. 16. G.S. 105-269.3 reads as rewritten:

21 **"§ 105-269.3. Administration and enforcement of Subchapter V and fuel**  
22 **inspection fee.**

23 This Article applies to taxes levied under Subchapter V of this Chapter ~~and to~~  
24 ~~inspection fees levied under Chapter 119 of the General Statutes~~ and to inspection fees  
25 levied under Chapter 119 of the General Statutes. The State Highway Patrol and law  
26 enforcement officers and other appropriate personnel in the Division of Motor Vehicles  
27 of the Department of Transportation may assist the Department of Revenue in enforcing  
28 Subchapter V of this Chapter and Article 3 of Chapter 119 of the General Statutes. The  
29 State Highway Patrol and law enforcement officers of the Division of Motor Vehicles  
30 have the power of peace officers in matters concerning the enforcement of Subchapter  
31 V of this Chapter and Article 3 of Chapter 119 of the General Statutes."

32 Sec. 17. G.S. 105-277A(c2) reads as rewritten:

33 "(c2) Supplemental Distribution. – On or before March 20, 1989, the Secretary  
34 shall determine, with respect to each county and city, whether the sum of (i) the amount  
35 the county or city received under subsection (c), plus (ii) the amount the county or city  
36 received under subsection (c1), plus (iii) three and four-tenths percent (3.4%) of the  
37 total distribution received by the county or city under G.S. 105-472, 105-486, ~~105-493~~,  
38 105-501, and Chapter 1096 of the 1967 Session Laws between January 1, 1988, and  
39 December 31, 1988, is less than ninety percent (90%) of the amount of taxes the county  
40 or city actually levied on inventories owned by retailers and wholesalers for the 1987-88  
41 tax year. If that sum is less than ninety percent (90%) of the amount of taxes the county  
42 or city actually levied on those inventories for the 1987-88 tax year, the Secretary shall  
43 distribute to that county or city a supplemental amount equal to the amount by which  
44 ninety percent (90%) of the taxes it actually levied on inventories owned by retailers

1 and wholesalers for the 1987-88 tax year exceeds the total of subdivisions (i), (ii), and  
2 (iii).

3 Except as provided in subsection (g) of this section, each year thereafter, as soon as  
4 practicable after January 1, the Secretary shall distribute to each county and city the  
5 amount it received the previous year under this subsection."

6 Sec. 18. G.S. 105-277A(d) reads as rewritten:

7 "(d) Definitions. ~~—As used in this section, the term~~ The following definitions apply  
8 in this section:

9 (1) 'City' has the same meaning as in ~~G.S. 153A-1(1);~~ G.S. 153A-1(1).

10 (2) 'City's inventory loss' means the city's average rate multiplied by  
11 eighty percent (80%) of the value of the inventories reported to the  
12 Secretary under subsection (a) of this section by the city, plus the  
13 average rate for each special district for which the city collected taxes  
14 in 1987, but whose tax rates were not included in the city's rates,  
15 multiplied by eighty percent (80%) of the value of the inventories  
16 reported to the Secretary under subsection (a) of this section in behalf  
17 of the district, plus or minus the percentage of this amount that equals  
18 the lesser of five percent (5%) or the percentage by which State  
19 personal income has increased or decreased during the most recent 12-  
20 month period for which State personal income data has been compiled  
21 by the Bureau of Economic Analysis of the United States Department  
22 of Commerce, minus three and four-tenths percent (3.4%) of the total  
23 distribution received by the city under G.S. 105-472, 105-486, ~~105-493,~~  
24 105-501, and Chapter 1096 of the 1967 Session Laws between January  
25 1, 1988, and December 31, ~~1988;~~ 1988.

26 (3) 'County's inventory loss' means the county's average rate multiplied by  
27 eighty percent (80%) of the value of the inventories reported to the  
28 Secretary under subsection (a) of this section by the county, plus the  
29 average rate for each special district for which the county collected  
30 taxes in 1987, but whose tax rates were not included in the county's  
31 rates, multiplied by eighty percent (80%) of the value of the  
32 inventories reported to the Secretary under subsection (a) of this  
33 section in behalf of the district, plus or minus the percentage of this  
34 amount that equals the lesser of five percent (5%) or the percentage by  
35 which State personal income has increased or decreased during the  
36 most recent 12-month period for which State personal income data has  
37 been compiled by the Bureau of Economic Analysis of the United  
38 States Department of Commerce, minus three and four-tenths percent  
39 (3.4%) of the total distribution received by the county under G.S. 105-  
40 472, 105-486, ~~105-493,~~ 105-501, and Chapter 1096 of the 1967 Session  
41 Laws between January 1, 1988, and December 31, ~~1988;~~ 1988.

42 (4) 'Special district's inventory levy' means the special district's average  
43 rate multiplied by eighty percent (80%) of the value of the inventories

1 reported to the Secretary under subsection (a) of this section in behalf  
2 of the ~~district~~, district.

3 (5) 'Taxing unit' means a unit that levied a property tax or for which  
4 another unit collected a property tax for the fiscal year beginning July  
5 1 of the year preceding the date a distribution is made under this  
6 section."

7 Sec. 19. G.S. 105-288(c) reads as rewritten:

8 "(c) Oath. – Each member of the Property Tax Commission, as the appointed  
9 holder of an office, shall take the oath required by Article VI, § 7 of the North Carolina  
10 Constitution with the following ~~sentence~~-phrase added to it: ~~'That~~-that I will not allow  
11 my actions as a member of the Property Tax Commission to be influenced by personal  
12 or political friendships or ~~obligations~~-obligations.'"

13 Sec. 20. G.S. 105-295 reads as rewritten:

14 "**§ 105-295. Oath of office for assessor.**

15 The assessor, as the holder of an appointed office, shall take the oath required by  
16 Article VI, § 7 of the North Carolina Constitution with the following ~~sentence~~-phrase  
17 added to it: ~~'That~~-that I will not allow my actions as assessor to be influenced by  
18 personal or political friendships or ~~obligations~~-obligations.' The oath must be filed with  
19 the clerk of the board of county commissioners."

20 Sec. 21. G.S. 105-322(c) reads as rewritten:

21 "(c) Oath. – Each member of the ~~Board of Equalization and Review~~-board  
22 of equalization and review shall take the oath required by Article VI, § 7 of the North  
23 Carolina Constitution with the following ~~sentence~~-phrase added to it: ~~'That~~-that I will  
24 not allow my actions as a member of the ~~Board of Equalization and Review~~-board of  
25 equalization and review to be influenced by personal or political friendships or  
26 ~~obligations~~-obligations.' The oath must be filed with the clerk of the board of county  
27 commissioners."

28 Sec. 22. G.S. 105-349(g) reads as rewritten:

29 "(g) Oath. – Every tax collector and deputy tax collector, as the holder of an  
30 office, shall take the oath required by Article VI, § 7 of the North Carolina Constitution  
31 with the following ~~sentence~~-phrase added to it: ~~'That~~-that I will not allow my actions as  
32 tax collector to be influenced by personal or political friendships or ~~obligations~~-  
33 obligations.' The oath must be filed with the clerk of the governing body of the taxing  
34 unit."

35 Sec. 23. Section 15 of Chapter 441 of the 1991 Session Laws is repealed.

36 Sec. 24. Section 6 of Chapter 652 of the 1991 Session Laws reads as  
37 rewritten:

38 "Sec. 6. Chapters 591, 905, 938, 940, 974, 1007, and 1017 of the 1989 Session  
39 Laws are ~~repealed~~-repealed to clarify that G.S. 153A-293, as amended by this act, is a  
40 statewide statute and not a local statute. An ordinance adopted under a local act that is  
41 repealed by this act is considered to have been adopted under G.S. 153A-293, as  
42 amended by this act."

43 Sec. 25. G.S. 65-64(c) is repealed.

44 Sec. 26. G.S. 75-81(3) reads as rewritten:

1           "(3) 'Motor Fuel' shall mean a refined or blended petroleum product used  
2           for the propulsion of self-propelled motor vehicles; the term includes  
3           'motor fuel' ~~shall also include the same meaning as defined by G.S. 105-~~  
4           ~~430(1) in G.S. 105-430 and fuel 'fuel' as defined by G.S. 105-449.2(3).~~  
5           in G.S. 105-449.2."

6           Sec. 27. G.S. 120-123(27) reads as rewritten:

7           "(27) The Property Tax Commission, as established by G.S. ~~143B-223-~~  
8           105-288."

9           Sec. 28. G.S. 130A-62 reads as rewritten:

10   **"§ 130A-62. Annual budget; tax levy.**

11       (a) A sanitary district shall operate under an annual balanced budget adopted in  
12       accordance with the Local Government Budget and Fiscal Control Act.

13       (b) A sanitary district has the option of either collecting its own taxes or having  
14       its taxes collected by the county or counties in which it is located. Unless a district takes  
15       affirmative action to collect its own taxes, taxes shall be collected by the county.

16       (c) For sanitary districts whose taxes are collected by the county, before May 1  
17       of each year, the assessor of each county in which the district is located shall certify to  
18       the district board the total assessed value of property in the county subject to taxation by  
19       the ~~district, and the county's assessment ratio.~~ district. By July 1 or upon adoption of its  
20       annual budget ordinance, the district board shall certify to the county board of  
21       commissioners the rate of ad valorem tax levied by the district on property in that  
22       county. ~~If the assessment ratios are not identical in all counties, the district budget ordinance~~  
23       ~~shall levy separate rates of ad valorem taxes for each county. These rates shall be adjusted so~~  
24       ~~that the effective rate is the same for all property located in the district. The "effective rate" is~~  
25       ~~the rate of tax which will produce the same tax liability on property of equal appraised value.~~  
26       Upon receiving the district's certification of its tax levy, the county commissioners shall  
27       compute the district tax for each taxpayer and shall separately state the district tax on  
28       the county tax receipts for the fiscal year. The county shall collect the district tax in the  
29       same manner that county taxes are collected and shall remit these collections to the  
30       district at least monthly. Partial payments shall be proportionately divided between the  
31       county and the district. The district budget ordinance may include an appropriation to  
32       the county for the cost to the county of computing, ~~billing~~ billing, and collecting the  
33       district tax. The amount of the appropriation shall be agreed upon by the county and the  
34       district, but may not exceed five percent (5%) of the district levy. Any agreement shall  
35       remain effective until modified by mutual agreement. The amount due the county for  
36       collecting the district tax may be deducted by the county from its monthly remittances  
37       to the district or may be paid to the county by the district.

38       (d) Sanitary districts electing to collect their own taxes shall be deemed cities for  
39       the purposes of the Machinery Act. ~~Act, Subchapter II of Chapter 105 of the General~~  
40       ~~Statutes.~~ Statutes. ~~If a district is located in more than one county, the district board may adopt the~~  
41       ~~assessments placed upon property located in the district by the counties in which the district is~~  
42       ~~located if, in the opinion of the board, the same appraisal and assessment standards will apply~~  
43       ~~uniformly throughout the district. If the board determines that adoption of the assessments fixed~~  
44       ~~by the counties will not result in uniform appraisals and assessments throughout the district, the~~  
45       ~~board may, by horizontal adjustments, equalize the appraisal values fixed by the counties and in~~

1 ~~accordance with the procedure prescribed in the Machinery Act, select and adopt an assessment~~  
2 ~~ratio to be applied to the appraised values of property subject to district taxation as equalized by~~  
3 ~~the board. Taxes levied by the district shall be levied uniformly on the assessments."~~

4           Sec. 29. G.S. 159-55(a)(5) reads as rewritten:

5           "(5) The percentage that the net debt bears to the ~~appraised~~-assessed value  
6           of property subject to taxation by the issuing unit."

7           Sec. 30. Section 2 of this act is effective retroactively for taxable years  
8 beginning on or after January 1, 1989. The remainder of this act is effective upon  
9 ratification.