

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 61

Short Title: Revenue Laws Technical Changes.

(Public)

Sponsors: Representatives Lilley, Abernethy, Brawley, and Hasty.

Referred to: Finance.

February 12, 1991

A BILL TO BE ENTITLED

AN ACT TO MAKE TECHNICAL CHANGES TO THE REVENUE LAWS AND RELATED STATUTES.

The General Assembly of North Carolina enacts:

Section 1. Article 2 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-33.1. Definitions.

The following definitions apply in this Article:

- (1) Code. The Internal Revenue Code as enacted as of January 1, 1991, including any provisions enacted as of that date which become effective either before or after that date.
- (2) Municipality. A municipal corporation organized under the laws of this State.
- (3) Person. An individual, a firm, a partnership, an association, a corporation, or another organization or group acting as a unit.
- (4) Secretary. The Secretary of Revenue."

Sec. 2. G.S. 105-37.1(d) reads as rewritten:

"(d) It is not the purpose of this Article to discourage agricultural fairs in the State, and to further this cause, no carnival company taxable under this section ~~will be allowed to~~ ~~may~~ play a 'still date' in any county where there is a regularly advertised agricultural fair, 30 days prior to the dates of the fair. ~~Nothing contained in this section shall prevent veterans' organizations and posts chartered by Congress or organized and operated on a statewide or nationwide basis from holding fairs or tobacco festivals on any dates which they may select, provided such fairs or festivals have been held as annual events prior to 1 July~~

1 ~~1988.—This subsection does not restrict the date on which a fair or tobacco festival may~~
2 ~~be held if (i) it is held by a veteran's organization or post chartered by Congress or~~
3 ~~organized and operated on a statewide or nationwide basis and (ii) the organization or~~
4 ~~post has held the fair or festival annually since before July 1, 1988."~~

5 Sec. 3. G.S. 105-83(d) reads as rewritten:

6 "(d) This section ~~shall does~~ not apply to corporations ~~organized under the State or~~
7 ~~national banking laws.~~ liable for the tax levied under G.S. 105-102.3."

8 Sec. 4. G.S. 105-88(b) reads as rewritten:

9 "(b) Nothing in this section shall be construed to apply to banks, industrial banks,
10 trust companies, building and loan associations, ~~cooperative credit unions, nor installment~~
11 ~~paper dealers defined and taxed under other sections of this Article, or cooperative credit~~
12 unions, nor shall it apply to the business of negotiating loans on real estate as described
13 in G.S. 105-41, nor to pawnbrokers lending or advancing money on specific articles of
14 personal property, nor to insurance premium finance companies licensed under Article
15 35 of Chapter 58 of the General Statutes. It shall apply to those persons or concerns
16 operating what are commonly known as loan companies or finance companies and
17 whose business is as hereinbefore described, and those persons, firms, or corporations
18 pursuing the business of lending money and taking as security for the payment of such
19 loan and interest an assignment of wages or an assignment of wages with power of
20 attorney to collect same, or other order or chattel mortgage or bill of sale upon
21 household or kitchen furniture. No real estate mortgage broker shall be required to
22 obtain a privilege license under this section merely because he advances his own funds
23 and takes a security interest in real estate to secure such advances and when, at the time
24 of such advance of his own funds, he has already made arrangements with others for the
25 sale or discount of the obligation at a later date and does so sell or discount such
26 obligation within the period specified in said arrangement or extensions thereof; or
27 when, at the time of the advance of his own funds, he intends to sell the obligation to
28 others at a later date and does, within 12 months from date of initial advance, make
29 arrangements with others for the sale of said obligation and does sell the obligation
30 within the period specified in said arrangement or extensions thereof; or because he
31 advances his own funds in temporary financing directly involved in the production of
32 permanent-type loans for sale to others; and no real estate mortgage broker whose
33 mortgage lending operations are essentially as described above shall be required to
34 obtain a privilege license under this section."

35 Sec. 5. G.S. 105-102.5(b)(10) reads as rewritten:

36 "(10) Manufacturing ice cream using counter freezer equipment and
37 selling the ice cream at retail; and selling at retail ice cream
38 purchased from a manufacturer other than a manufacturer who has
39 paid the tax imposed in G.S. 105-97(a). For the purpose of this
40 subdivision, 'ice cream' means ice cream, frozen custards, sherbets,
41 water ices, yogurt, and/or similar frozen products."

42 Sec. 6. G.S. 105-130.27(f) and G.S. 105-151.6(f) are repealed.

43 Sec. 7. G.S. 105-131.8(b) reads as rewritten:

1 "(b) Each shareholder of an S Corporation ~~shall be~~ is allowed as a credit
2 against the tax imposed by Division II of this Article ~~in~~ an amount equal to the
3 shareholder's pro rata share of the tax credits for which the S Corporation is eligible."

4 Sec. 8. G.S. 105-134.2(b) reads as rewritten:

5 "(b) In lieu of the tax imposed by subsection (a) of this section, there is imposed
6 for each taxable year upon the North Carolina taxable income of every individual a tax
7 determined under tables, applicable to the taxable year, which may be prescribed by the
8 ~~Secretary of Revenue. Secretary. The tables prescribed under this subsection shall be in the~~
9 ~~form the Secretary deems appropriate, and the~~ The amounts of the tax determined under the
10 tables shall be computed on the basis of the rates prescribed by subsection (a) of this
11 section. This subsection does not apply to an individual making a return under section
12 443(a)(1) of the Code for a period of less than 12 months on account of a change in the
13 individual's annual accounting period, or to an estate or trust. The tax imposed by this
14 subsection shall be treated as the tax imposed by subsection (a) of this section."

15 Sec. 9. G.S. 105-134.6(c)(2) reads as rewritten:

16 "(2) Any amount allowed as a deduction from gross income under the Code
17 that is taxed under the Code by a separate tax other than the tax
18 imposed in section 1 of the Code. ~~The Secretary shall report to the 1991~~
19 ~~General Assembly all provisions under the Code for taxing certain amounts~~
20 ~~separately and shall recommend whether those amounts should be taxed~~
21 ~~separately under this Division or should be added to taxable income in~~
22 ~~calculating North Carolina taxable income."~~

23 Sec. 10. G.S. 105-151.12(e) reads as rewritten:

24 "(e) In the case of marshland for which a claim has been filed pursuant to G.S.
25 113-205, the offer of donation must be made before ~~31 December 1994~~ December 31,
26 1994, to qualify for the credit allowed by this section."

27 Sec. 11. G.S. 105-151.20 reads as rewritten:

28 "**§ 105-151.20. Credit for tax paid on certain government retirement benefits.**

29 A taxpayer who received government retirement benefits during the 1988 tax year
30 may claim a credit against the tax imposed by this Division equal to the amount by
31 which the tax under this Division paid by the taxpayer for the 1988 tax year would have
32 been reduced if none of the taxpayer's government retirement benefits had been
33 included in the taxpayer's taxable income. If a taxpayer received a refund of any tax
34 paid under this Division on government retirement benefits for the 1988 tax year, the
35 amount of the refund reduces the amount of the credit allowed under this section.

36 As used in this section, the term 'government retirement benefits' means retirement
37 benefits received from one or more state, local, or federal government retirement plans.
38 As used in this section, the term '1988 tax year' means the taxpayer's taxable year
39 beginning on a day in 1988.

40 The credit allowed under this section shall ~~shall~~ be taken in equal installments over
41 the taxpayer's first three taxable years beginning on or after January 1, 1990. The credit
42 allowed under this section may not exceed the amount of tax imposed by this Division
43 reduced by the sum of all credits allowed against the tax, except payments of tax made
44 by or on behalf of the taxpayer."

1 Sec. 12. G.S. 105-155(c) reads as rewritten:

2 "(c) There shall be annexed to the return the affirmation of the taxpayer making
3 the return in the following form: 'Under penalties prescribed by law, I hereby affirm
4 that to the best of my knowledge and belief this return, including any accompanying
5 schedules and statements, is true and complete.' ~~complete. (If the return was prepared~~
6 ~~by a person other than the taxpayer, that the preparer's affirmation shall state that it is~~
7 ~~based on all information of which the preparer has any knowledge.)~~ knowledge. The
8 Secretary shall prepare blank forms for the returns, distribute them throughout the State,
9 and furnish them upon application; but failure to receive or secure the form shall not
10 relieve any taxpayer from the obligation of filing a return required by this Division."

11 Sec. 13. G.S. 105-159.1(a) reads as rewritten:

12 "(a) Every individual whose income tax liability for the taxable year is
13 one dollar (\$1.00) or more may designate on his or her income tax return that one dollar
14 (\$1.00) of the ~~amount of tax paid by him or her to the Department tax~~ shall be paid to the
15 State Treasurer for the use of all political parties. In the case of a married couple filing
16 a joint return whose income tax liability for the taxable year is two dollars (\$2.00) or
17 more, each spouse may designate on the income tax return that one dollar (\$1.00) of the
18 tax shall be paid to the State Treasurer for the use of all political parties. ~~by the Secretary~~
19 The Secretary shall credit all amounts so designated to the State Treasurer for the use of
20 all political parties upon a pro rata basis according to their respective party voter
21 registrations according to the most recent certification of the State Board of Elections.
22 ~~Elections; Provided, however, that no political party with less than one percent (1%) of the total~~
23 ~~number of registered voters in the State shall receive any of these funds, and the registration of~~
24 ~~such a party shall not be included in calculating the pro rata distribution.~~ ~~As used in this~~
25 ~~section, the term 'political party' means one of the following that has at least one percent~~
26 ~~(1%) of the total number of registered voters in the State:~~

27 (1) ~~a~~ A political party which ~~that~~ at the last preceding general State
28 election received at least ten percent (10%) of the entire vote cast in
29 the State for Governor or for presidential electors, ~~electors.~~

30 (2) ~~a~~ A group of voters who by July 1 of the preceding calendar year, by
31 virtue of a petition as a new political party, had duly qualified as a new
32 political party within the meaning of Chapter 163 of the General
33 Statutes."

34 Sec. 14. (a) G.S. 105-163.07 is recodified as G.S. 105-151.21 and reads as
35 rewritten:

36 ~~"§ 105d machinery by individuals and certain corporations. 105-151.21. Credit for~~
37 ~~property taxes paid on farm machinery.~~

38 (a) Credit. An individual farmer, or a corporation that is engaged in the business
39 of farming and has elected to be treated as an "S corporation" under the Code, that pays
40 property taxes on farm machinery, or attachments and repair parts for farm machinery,
41 is allowed a credit against the tax imposed by this Division equal to the amount of
42 property taxes the individual paid at par during the taxable year on farm machinery and
43 on attachments and repair parts for farm machinery. In addition, an individual
44 shareholder of an S Corporation engaged in the business of farming is allowed a credit

1 against the tax imposed by this Division equal to the shareholder's pro rata share of the
2 amount of property taxes the S Corporation paid at par during the taxable year on farm
3 machinery and on attachments and repair parts for farm machinery. The total credit
4 allowed under this section may not exceed one thousand dollars (\$1,000) for the taxable
5 year and may not exceed the amount of tax imposed by this Division for the taxable
6 year reduced by the sum of all credits allowed under this Division, except payments of
7 tax made by or on behalf of the taxpayer. To claim the credit, the taxpayer shall attach
8 to the return a copy of the tax receipt for the property taxes for which credit is claimed.
9 The receipt must indicate that the taxes have been paid and the amount and date of the
10 payment.

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

12 (1) Farm machinery. Machinery subject to State sales tax at the rate of
13 one percent (1%) under G.S. 105-164.4(a)(1d)a.

14 (2) Property taxes. The principal amount of taxes levied and assessed by a
15 taxing unit under the Machinery Act. The term does not include costs,
16 penalties, interest, or other charges that may be added to the principal
17 amount.

18 (3) Taxing unit. Defined in G.S. 105-273.

19 (c) Adjustment. If a taxing unit gives a taxpayer a credit or refund for any of the
20 property taxes for which the taxpayer claimed a credit under this section, the taxpayer
21 shall notify the Secretary within 90 days. The Secretary shall then recompute the credit
22 allowed under this section and make any resulting adjustment of income tax for the
23 taxable year for which the credit was claimed. ~~credit, not to exceed one thousand dollars~~
24 ~~(\$1,000), against the income tax imposed by this Article equal to the amount of property taxes~~
25 ~~paid, at par by that individual or corporation during the taxable year, on the farm machinery~~
26 ~~and attachments and repair parts for the machinery. As used in this section, "farm machinery"~~
27 ~~means machinery that:~~

28 (1) ~~Is used in planting, cultivating, harvesting, or curing farm crops or in~~
29 ~~producing dairy products, poultry, eggs, or livestock; and~~

30 (2) ~~Is subject to State sales tax at the rate of one percent (1%) under G.S. 105-~~
31 ~~164.4(1)g."~~

32 (b) The remainder of Division IV of Article 4 of Chapter 105 of the General
33 Statutes is repealed.

34 (c) G.S. 105-320(a)(16) reads as rewritten:

35 "(16) The total assessed value of farm machinery,
36 attachments, and repair parts of individual owners and
37 Subchapter "S" corporations engaged in farming subject to the
38 income tax credit in G.S. ~~105-163.07-105-151.21~~ and the amount
39 of ad valorem taxes due by an individual farmer or a Subchapter
40 "S" corporation engaged in farming on farm machinery,
41 attachments, and repair parts subject to that credit."

42 Sec. 15. G.S. 105-164.3(5) reads as rewritten:

43 "(5) 'Engaged in business' ~~shall mean~~ means maintaining, occupying or
44 using permanently or temporarily, directly or indirectly, or through a

1 subsidiary or agent, by whatever name called, any office, place of
2 distribution, sales or sample room or place, warehouse or storage
3 place, or other place of business, for the selling or delivering of
4 tangible personal property for storage, use or consumption in this
5 State, or permanently or temporarily, directly or through a subsidiary,
6 having any representative, agent, salesman, canvasser or solicitor
7 operating in this State in such selling or delivering, and the fact that
8 any corporate retailer, agent or subsidiary engaged in business in this
9 State may not be legally domesticated or qualified to do business in
10 this State ~~shall be~~ is immaterial. It ~~shall also mean the also means~~
11 maintaining in this State, either permanently or temporarily, directly or
12 through a subsidiary, tangible personal property for the purpose of
13 lease or rental. It ~~shall also mean~~ also means making a mail order sale,
14 as defined in ~~subdivision (8a) of this section,~~ if one of the conditions
15 listed in G.S. 105-164.8(b) is met."

16 Sec. 16. G.S. 105-164.8(b) reads as rewritten:

17 "(b) A retailer who makes a mail order sale is engaged in business in this State
18 and is subject to the tax levied under this Article if one of the following conditions is
19 met:

- 20 (1) The retailer is a corporation engaged in business under the laws of this
21 State or a person domiciled in, a resident of, or a citizen of, this State;
- 22 (2) The retailer maintains retail establishments or offices in this State,
23 whether the mail order sales thus subject to taxation by this State result
24 from or are related in any other way to the activities of such
25 establishments or offices;
- 26 (3) The retailer has representatives in this State who solicit business or
27 transact business on behalf of the retailer, whether the mail order sales
28 thus subject to taxation by this State result from or are related in any
29 other way to such solicitation or transaction of business;
- 30 (4) ~~The property was delivered in this State in fulfillment of a sales~~
31 ~~contract that was entered into in this State, in accordance with~~
32 ~~applicable conflict of laws rules, when a person in this State accepted~~
33 ~~an offer by ordering the property;~~
- 34 (5) The retailer, by purposefully or systematically exploiting the market
35 provided by this State by any media-assisted, media-facilitated, or
36 media-solicited means, including direct mail advertising, distribution
37 of catalogues, computer-assisted shopping, television, radio or other
38 electronic media, telephone solicitation, magazine or newspaper
39 advertisements, or other media, creates nexus with this State;
- 40 (6) Through compact or reciprocity with another jurisdiction of the United
41 States, that jurisdiction uses its taxing power and its jurisdiction over
42 the retailer in support of this State's taxing power; or
- 43 (7) The retailer consents, expressly or by implication, to the imposition of
44 the tax imposed by this Article. For purposes of this subdivision,

1 evidence that a retailer engaged in the activity described in subdivision
2 (5) shall be prima facie evidence that the retailer consents to the
3 imposition of the tax imposed by this Article."

4 Sec. 17. G.S. 105-164.13(14) reads as rewritten:

5 "(14) ~~Holy Bibles; public~~ Public school books on the adopted list, the
6 selling price of which is fixed by State contract."

7 Sec. 18. G.S. 105-164.44A is repealed.

8 Sec. 19. G.S. 105-265 is repealed.

9 Sec. 20. G.S. 105-130.35 is recodified as G.S. 105-269.5 and reads as
10 rewritten:

11 ~~"§ 105sWildlife Fund for management of nongame and endangered species. 105-269.5.~~
12 **Contribution of income tax refund to Wildlife Fund.**

13 Any taxpayer ~~that is entitled to a refund of income taxes paid as provided by this~~
14 ~~Article under Article 4 of this Chapter~~ may elect to contribute all or ~~any part of such part~~
15 of the refund to the Wildlife Fund for the support of wildlife management and
16 protection programs primarily for nongame wildlife species and wildlife species which
17 are or may hereafter be designated as endangered or threatened. The Secretary of
18 Revenue shall provide appropriate language and space on the ~~corporation~~ income tax
19 form in which to make the election. ~~such election and shall note the same in his instructions~~
20 as a contribution qualifying as a deduction under G.S. 105-130.9(2). Any such ~~The taxpayer's~~
21 election shall become irrevocable upon filing the taxpayer's income tax return for the
22 taxable year. ~~All of such contributions shall be transmitted.~~ The Secretary of Revenue shall
23 transmit the contributions made pursuant to this section to the State Treasurer for credit
24 to the Wildlife Fund ~~which shall be made available to the~~ to be used by the Wildlife
25 Resources Commission only for the support of management and protection programs
26 primarily for nongame wildlife and endangered and threatened species and to match
27 federal funds which may become available for ~~such~~ these purposes."

28 Sec. 21. Article 9 of Chapter 105 of the General Statutes, as amended by this
29 act, is further amended by adding at the end a new section to read:

30 **"§ 105-269.6. Contribution of individual income tax refund to Candidates**
31 **Financing Fund.**

32 An individual entitled to a refund of income taxes under Division II of Article 4 of
33 this Chapter may elect to contribute all or part of the refund to the North Carolina
34 Candidates Financing Fund for the use of political campaigns as provided in Article
35 22C of Chapter 163 of the General Statutes. The Secretary of Revenue shall provide
36 appropriate language and space on the individual income tax form in which to make the
37 election. The election becomes irrevocable upon filing the individual's income tax
38 return for the taxable year. The Secretary of Revenue shall, on a quarterly basis,
39 transmit the contributions made pursuant to this section to the State Treasurer for credit
40 to the North Carolina Candidates Financing Fund. Any interest earned on funds so
41 credited shall be credited to that Fund."

42 Sec. 22. G.S. 105-163.16 reads as rewritten:

43 **"§ 105-163.16. Overpayment refunded.**

1 (a) Where the amount of wages withheld at the source under G.S. 105-163.2
2 exceeds the tax imposed by Article 4 of this Chapter against which the tax so withheld
3 may be credited under G.S. 105-163.10, ~~the amount of such excess shall be considered an~~
4 ~~overpayment by the employee. employee, and, notwithstanding the provisions of G.S. 105-~~
5 ~~266 and 105-266.1, overpayment by the employee shall be refunded by the Secretary under the~~
6 ~~provisions of this section unless the taxpayer elects to apply the overpayment to his estimated~~
7 ~~income tax liability for the following year pursuant to G.S. 105-269.4.~~

8 (b) If the amount of estimated tax paid under G.S. 105-163.15 exceeds the taxes
9 imposed by Article 4 of this Chapter against which the estimated tax so paid may be
10 credited under the provisions of this Article, the excess shall be considered an
11 overpayment by the taxpayer. taxpayer, and, notwithstanding the provisions of G.S. 105-266
12 and G.S. 105-266.1, ~~this overpayment by the taxpayer shall be refunded by the Secretary under~~
13 ~~the provisions of this section unless the taxpayer elects to apply the overpayment to his~~
14 ~~estimated income tax liability for the following year pursuant to G.S. 105-269.4.~~

15 (c) ~~Where there has been an overpayment (as specified in subsections (a) and (b) of this~~
16 ~~section) Notwithstanding G.S. 105-266 and G.S. 105-266.1, an overpayment of any tax~~
17 ~~imposed under Article 4 of this Chapter, as disclosed by the taxpayer's annual return~~
18 ~~required to be filed by Article 4, the amount of such overpayment shall be refunded to the~~
19 ~~taxpayer; taxpayer subject to the following exceptions:~~

20 (1) The taxpayer may elect to apply the overpayment to another purpose
21 as provided in Article 9 of this Chapter.

22 (2) If the amount of the overpayment is less than one dollar (\$1.00), it will
23 be refunded only upon the taxpayer's written demand for a refund.

24 (3) There will be no refund of any part of the overpayment setoff under
25 the Setoff Debt Collection Act, Chapter 105A.

26 ~~except that overpayments of less than one dollar (\$1.00) shall be refunded only upon~~
27 ~~receipt by the Secretary of a written demand for such refund from the taxpayer and~~
28 ~~except that there shall be no refund to the taxpayer of any sum set off under the~~
29 ~~provisions of Chapter 105A, the Set-off Debt Collection Act. Every refund authorized~~
30 ~~by this section shall be made as expeditiously as possible, possible after the taxpayer~~
31 ~~files the final return, and within six months ~~from after~~ the date on which the ~~annual-final~~~~
32 ~~return is filed or due to be filed, whichever is later, insofar as practical. the same is~~
33 ~~practicable; except that no refunds for overpayment of estimated tax shall be made by~~
34 ~~the Secretary prior to the date on which the final return is filed by the taxpayer. No~~
35 ~~interest shall be paid with respect to any such refund if the refund is made within the six~~
36 ~~months' period above referred to. refund made within this six-month period. Refunds~~
37 ~~made after the end of the six-month period shall bear interest Interest computed at the~~
38 ~~rate established in G.S. 105-241.1(i) for assessments ~~shall be paid on refunds made after~~~~
39 ~~the expiration of said six months' period, such interest to be computed from the time of~~
40 ~~the expiration of said six months' from the end of the six-month period until paid. It~~
41 ~~shall not be is not necessary for the Attorney General or any member of his staff to~~
42 ~~approve such refund. to approve the refund. The making of such ~~the~~ refund does not~~
43 ~~absolve any taxpayer of any income tax liability which may in fact exist and the~~
44 ~~Secretary may make any assessment for any deficiency in the manner provided in~~
45 ~~Article 9 of this Chapter. No overpayment of tax by the taxpayer shall be refunded~~

1 irrespective of whether upon discovery or receipt of written demand if such ~~the~~
2 discovery is not made or such ~~the~~ demand is not received within three years from the
3 date set by the statute for the filing of the annual return by the taxpayer or within six
4 months of the payment of the tax alleged to be an overpayment, whichever date is the
5 later.

6 (d) When a husband and wife have elected ~~under G.S. 105-152.1 to file~~ filed a
7 joint return and a refund for overpayment of tax is made payable to both spouses as
8 provided in that subsection, the provisions of this section shall apply to the refund.

9 ~~(e) Any taxpayer who is entitled to a refund of taxes withheld or estimated taxes paid~~
10 ~~as provided by this section may elect to contribute all or any part of the refund to the~~
11 ~~Wildlife Fund for the support of wildlife management and protection programs~~
12 ~~primarily for nongame wildlife species and wildlife species which are or may hereafter~~
13 ~~be designated as endangered or threatened. The Secretary shall provide appropriate~~
14 ~~language and space on the individual income tax form in which to make the election.~~
15 ~~The election shall become irrevocable upon filing the taxpayer's income tax return for~~
16 ~~the taxable year. All of the contributions made pursuant to this subsection shall be~~
17 ~~transmitted to the State Treasurer for credit to the Wildlife Fund which shall be made~~
18 ~~available to the Wildlife Resources Commission for the support of management and~~
19 ~~protection programs primarily for nongame wildlife and endangered and threatened~~
20 ~~species and to match federal funds which may become available for these purposes.~~

21 ~~(f) Any taxpayer who is entitled to a refund of taxes withheld or estimated taxes~~
22 ~~paid as provided by this section may elect to contribute all or any part of the refund to~~
23 ~~the North Carolina Candidates Financing Fund for the use of political campaigns as~~
24 ~~provided in Article 22C of Chapter 163 of the General Statutes. The Secretary shall~~
25 ~~provide appropriate language and space on the individual income tax form in which to~~
26 ~~make the election. The election shall become irrevocable upon filing the taxpayer's~~
27 ~~income tax return for the taxable year. The Secretary shall, on a quarterly basis,~~
28 ~~transmit the the contributions made pursuant to this subsection to the State Treasurer for~~
29 ~~deposit in the North Carolina Candidates Financing Fund. Any interest earned on funds~~
30 ~~so deposited shall be credited to that Fund."~~

31 Sec. 23. G.S. 113A-39 reads as rewritten:

32 **"§ 113A-39. Claim and allowance of charitable deduction for contribution or gift of**
33 **easement.**

34 The contribution or donation of a 'scenic easement,' right-of-way or any other
35 easement or interest in land to the State of North Carolina, as provided in this Article,
36 shall be deemed a contribution to the State of North Carolina within the provisions of
37 G.S. 105-130.9 and ~~105-147(16)~~ section 170(c)(1) of the Internal Revenue Code. The
38 value of the contribution or donation shall be the fair market value of the easement or
39 other interest in land when the contribution or donation is made."

40 Sec. 24. G.S. 131C-5 reads as rewritten:

41 **"§ 131C-5. Exemptions.**

42 (a) Any person who solicits charitable contributions for a religious purpose or on
43 behalf of a person established for a religious purpose shall not be required to apply for a
44 license.

1 (b) Solicitation of charitable contributions by the federal, State or local
2 government, or any agency thereof, shall not be subject to this ~~Article [Chapter].~~ Chapter.
3 For purposes of this subsection any volunteer fire department or rescue squad which
4 receives any funds from federal, State, or local government shall be considered an
5 agency thereof.

6 (c) Any person who receives less than ten thousand dollars (\$10,000) in
7 contributions in any calendar year and does not provide compensation to any officer,
8 trustee, organizer, incorporator, fund-raiser or professional solicitor shall not be
9 required to apply for a license.

10 (d) Any educational institution, the curriculum of which in whole or in part, is
11 registered, approved or accredited by the Southern Association of Colleges and Schools
12 or an equivalent regional accrediting body; any educational institution in compliance
13 with Article 39 of Chapter 115C of the General Statutes; and any foundation or
14 department having an established identity with any of the aforementioned educational
15 institutions shall not be required to apply for a license.

16 (e) Any hospital licensed pursuant to ~~Article 13A of Chapter 131~~ Article 5 of
17 Chapter 131E of the General Statutes and any foundation or department having an
18 established identity with the aforementioned hospital shall not be required to apply for a
19 license; Provided, however, that the governing board of the hospital authorizes the
20 solicitation and receives an accounting of the funds collected and expended.

21 (f) Any noncommercial radio or television station shall not be required to apply
22 for a license.

23 (g) ~~Any public supported community foundation or public supported community trust~~
24 ~~as defined by G.S. 105-147(16) shall not be~~ A qualified community trust as provided in 26
25 C.F.R. § 1.170A-9(e)(10) through (e)(14) is not required to apply for a license."

26 Sec. 25. G.S. 143-283.7 reads as rewritten:

27 "**§ 143-283.7. Funds, expenses and gifts; reports.**

28 There is hereby created in the State treasury a special revolving fund to be known as
29 'Employment of the Handicapped Revolving Fund.' The fund shall consist of all
30 moneys received by the Department of Administration, or in behalf of the Department
31 from the United States, any federal or State agency or institution, gifts, contributions,
32 donations and bequests, but not excluding any other source of revenue for the purpose
33 of promoting the employment and rehabilitation of handicapped citizens of North
34 Carolina. The Department of Administration may use said revolving fund to pay the
35 salaries and general expenses of the administrative office, personnel, materials, supplies,
36 equipment, travel; provide awards, citations, scholarships, but not excluding other
37 purposes for the promoting of the employment and rehabilitation of handicapped
38 citizens. All expenditures from said fund shall be subject to the provisions of the
39 Executive Budget Act.

40 Any moneys remaining in said revolving fund at the end of any fiscal year or
41 biennium shall not revert to the general fund or any other fund but shall continue to
42 remain in said revolving fund to be expended for the purposes of this Article.

43 The Department of Administration shall accept, hold in trust, and authorize the use
44 of any grant or devise of land, or any donation or bequests of money or other personal

1 property made to the Department, so long as the terms of the grant, donation, bequest or
2 will are carried out. The Department of Administration may invest and reinvest any
3 funds and money, lease, or sell any real or personal property, and invest the proceeds for
4 the purpose of promoting the employment and rehabilitation of the handicapped unless
5 prohibited by the terms of the grant, donation, bequest, gift, or will. If, due to
6 circumstances, the requests of the person or persons, making the grant, donation,
7 bequest, gift, or will cannot be carried out, the Department of Administration shall have
8 the authority to use the remainder thereof for the purpose of this Article. Said funds
9 shall be deposited in the revolving fund to carry out the provisions of this Article. ~~Such~~
10 ~~gifts, donations, bequests, or grants shall be exempt for tax purposes.~~—The Department shall
11 report annually to the Governor all moneys and properties received and expended by
12 virtue of this section.

13 All funds and properties in the hands of the Governor's Executive Committee on
14 July 1, 1973, shall be transferred to the Department of Administration for use in
15 furtherance of the purposes of this Article."

16 Sec. 26. G.S. 105-241.4 reads as rewritten:

17 **"§ 105-241.4. Action to recover tax paid.**

18 Within 30 days after notification of the Secretary's decision with respect to liability
19 under this Subchapter or ~~under Article 36 of Subchapter V~~, any taxpayer aggrieved
20 thereby, in lieu of petitioning for administrative review thereof by the Tax Review
21 Board under G.S. 105-241.2, may pay the tax and bring a civil action for its recovery as
22 provided in G.S. 105-267.

23 Any taxpayer who has obtained an administrative review by the Tax Review Board
24 as provided by G.S. 105-241.2 and who is aggrieved by the decision of the ~~said~~ Board
25 may, in lieu of appealing pursuant to the provisions of G.S. 105-241.3, within 30 days
26 after notification of the Board's decision with respect to liability pay the tax and bring a
27 civil action for its recovery as provided in G.S. 105-267.

28 Either party may appeal to the appellate division from the judgment of the superior
29 court under the rules and regulations prescribed by law for appeals, except that if the
30 ~~Secretary, if he should appeal, shall not be~~ Secretary appeals, the Secretary is not required
31 to give any undertaking or make any deposit to secure the cost of ~~such~~ the appeal.

32 Any taxes, interest or penalties paid and found by the court to be in excess of those
33 which can be properly assessed shall be ordered refunded to the taxpayer with interest
34 from time of payment."

35 Sec. 27. G.S. 105-253(b)(3) reads as rewritten:

36 "(3) For all taxes due from the corporation pursuant to the provisions of
37 ~~Article 36 and Article 36A of Subchapter V of this Chapter.~~"

38 Sec. 28. G.S. 105-262 reads as rewritten:

39 **"§ 105-262. Rules and regulations.**

40 The Secretary of Revenue ~~shall, from time to time, initiate and prepare such~~
41 ~~regulations, not inconsistent with law, as may be useful and necessary to implement the~~
42 ~~provisions of all the Articles of Subchapter I (except Article 8B) and Article 36 of~~
43 ~~Subchapter V, such regulations to become effective when approved by the Tax Review~~
44 ~~Board.~~ may adopt regulations needed to administer a tax collected by the Secretary or to

1 fulfill another duty delegated to the Secretary. A regulation becomes effective when it
2 is approved by the Tax Review Board. All regulations and amendments thereto shall be
3 published and made available by the Secretary of Revenue.

4 The Secretary of Revenue may, from time to time, make and prescribe such
5 administrative rules, not inconsistent with law and the regulations approved by the Tax
6 Review Board, as may be useful for the administration of his department and the
7 discharge of his responsibilities.

8 References to rules and regulations of the Secretary of Revenue in this Chapter and
9 in any subsequent amendments or additions thereto (unless expressly provided to the
10 contrary therein) shall be construed to mean those rules and regulations promulgated
11 under the provisions of this section."

12 Sec. 29. G.S. 105-264 reads as rewritten:

13 "**§ 105-264. Construction of Subchapter; population. Effect of interpretation,**
14 **regulation, or rule.**

15 It shall be the duty of the Secretary of Revenue to construe all sections of this
16 Subchapter (~~except Article 8B~~) that are administered by the Secretary and all sections of
17 ~~Article 36 of Subchapter V; provided, such construction shall not be inconsistent with~~
18 ~~applicable regulations duly promulgated under the provisions of G.S. 105-262; provided~~
19 ~~further, nothing in this section shall be construed to prohibit the Secretary of Revenue from~~
20 ~~initiating and proposing regulations, as provided in G.S. 105-262, modifying, changing,~~
21 ~~altering or repealing existing regulations. Such decisions~~ V. The Secretary's interpretation
22 of these sections shall be consistent with the applicable regulations. Interpretations by
23 the Secretary of Revenue shall be prima facie correct, and a protection to the officers
24 and taxpayers affected thereby. Where the license tax is graduated in this Subchapter
25 according to the population, the population shall be the number of inhabitants as determined by
26 the last census of the United States government: Provided, that if any city or town in this State
27 has extended its limits since the last census period, and hereafter has taken a census of its
28 population in these increased limits by an official enumeration, either through the aid of the
29 United States government or otherwise, the population thus ascertained shall be that upon
30 which the license tax is to be graduated.

31 Whenever the Secretary of Revenue shall construe any provisions of the revenue
32 laws administered by him and shall issue or publish to taxpayers in writing any
33 regulation or ruling so construing the effect or operation of any such laws, such ruling
34 or regulation shall be a protection to the officers and taxpayers affected thereby and
35 taxpayers shall be entitled to rely upon such regulation or ruling. In the event the
36 Secretary of Revenue shall change, modify, repeal, abrogate, or alter any such
37 regulation or ruling any taxpayer who has relied upon the construction or interpretation
38 contained in the Secretary's previous ruling or regulation shall not be liable for any
39 additional assessment on account of any tax not paid by reason of reliance upon such
40 ruling or regulation and which might have accrued prior to the date of the change,
41 modification, repeal, abrogation, or alteration by the Secretary, and during the effective
42 period of such prior ruling or regulation. Provided, that nothing herein contained shall
43 prevent any such change in construction or interpretation of the provisions of this
44 Chapter by the Secretary of Revenue from being effective from and after the date of its
45 issuance or promulgation, or the assessment of any tax thereunder."

- 1 Sec. 30. G.S. 105-267.1 is repealed.
- 2 Sec. 31. This act is effective upon ratification.