

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 104

Short Title: Revenue Laws Technical Changes.

(Public)

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Sponsors: Senators Cochrane, Hoyle, Kerr; Carpenter, Foxx, and Forrester.

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Referred to: Finance.

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February 1, 1995

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

Section 1. Effective July 1, 1995, G.S. 105-113.82(a) reads as rewritten:

"(a) Amount, Method. – The Secretary shall distribute annually the following percentages of the net amount of excise taxes collected on the sale of malt beverages and wine during the preceding 12-month period ending March 31, less the amount of the net proceeds credited to the Department of Agriculture under ~~G.S. 105-113.81A~~, G.S. 105-113.81A, to the counties and cities in which the retail sale of these beverages is authorized:

- (1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-three and three-fourths percent (23 3/4%);
- (2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-two percent (62%); and
- (3) Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-two percent (22%).

If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at retail in both a county and a city located in the county, both the county and city shall receive a portion of the amount distributed, that portion to be determined on the basis of

1 population. If one of these beverages may be licensed to be sold at retail in a city located  
2 in a county in which the sale of the beverage is otherwise prohibited, only the city shall  
3 receive a portion of the amount distributed, that portion to be determined on the basis of  
4 population. The amounts distributed under subdivisions (1), (2), and (3) shall be  
5 computed separately."

6 Sec. 2. G.S. 105-130.25(b) reads as rewritten:

7 "(b) Cogenerating Power Plant Defined. – For purposes of this section, a  
8 cogenerating power plant is a power plant that ~~that~~ sequentially produces electrical or  
9 mechanical power and useful thermal energy from the same primary energy source. The  
10 credit allowed by this section does not apply to construction of a cogenerating power  
11 plant whose combustion equipment uses residual oil, middle distillate oil, gasoline, or  
12 liquid propane gas (LPG) as a primary fuel."

13 Sec. 3. G.S. 105-130.2(5c) reads as rewritten:

14 "(5c) State net income. – ~~Federal~~ The taxpayer's federal taxable income as  
15 determined under the Code, adjusted as provided in G.S. 105-130.5  
16 and, in the case of a corporation that has income from business  
17 activity that is taxable both within and without this State, allocated  
18 and apportioned to this State as provided in G.S. 105-130.4."

19 Sec. 4. G.S. 105-134.5 reads as rewritten:

20 **"§ 105-134.5. North Carolina taxable income defined.**

21 (a) Residents. – For residents of this State, the term 'North Carolina taxable  
22 income' means the taxpayer's taxable income as calculated ~~determined~~ under the Code,  
23 adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7.

24 (b) Nonresidents. – For nonresident individuals, the term 'North Carolina taxable  
25 income' means the taxpayer's taxable income as calculated ~~determined~~ under the Code,  
26 adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, multiplied by a fraction the  
27 denominator of which is the taxpayer's gross income as calculated ~~determined~~ under the  
28 Code, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, and the numerator of  
29 which is the amount of that gross income, as adjusted, that is derived from North  
30 Carolina sources and is attributable to the ownership of any interest in real or tangible  
31 personal property in this State or is derived from a business, trade, profession, or  
32 occupation carried on in this State.

33 (c) Part-year Residents. – If an individual was a resident of this State for only part  
34 of the taxable year, having moved into or removed from the State during the year, the  
35 term 'North Carolina taxable income' has the same meaning as in subsection (b) except  
36 that the numerator shall include gross income, adjusted as provided in G.S. 105-134.6  
37 and G.S. 105-134.7, derived from all sources during the period the individual was a  
38 resident.

39 (d) S Corporations and Partnerships. – In order to calculate the numerator of the  
40 fraction provided in subsection (b), the amount of a shareholder's pro rata share of S  
41 Corporation income that is includable in the numerator shall be the shareholder's pro rata  
42 share of the S Corporation's income attributable to the State, as defined in G.S. 105-  
43 131(b)(4). In order to calculate the numerator of the fraction provided in subsection (b)

1 for a member of a partnership or other unincorporated business with one or more  
2 nonresident members that operates in one or more other states, the amount of the  
3 member's distributive share of income of the business that is includable in the numerator  
4 shall be determined by multiplying the total net income of the business by the ratio  
5 ascertained under the provisions of G.S. 105-130.4. As used in this subsection, total net  
6 income means the entire gross income of the business less all expenses, taxes, interest,  
7 and other deductions allowable under the Code which were incurred in the operation of  
8 the business."

9 Sec. 5. Effective for taxable years beginning on or after January 1, 1995, G.S.  
10 105-134.6(c) is amended by adding a new subdivision to read:

11 "(7) The amount of federal estate tax that is attributable to an item of income  
12 in respect of a decedent and is deducted from gross income under  
13 section 691(c) of the Code."

14 Sec. 6. G.S. 105-164.4(c) reads as rewritten:

15 "(c) Any person who engages in any business for which a privilege tax is imposed  
16 by this Article shall apply for and obtain from the Secretary upon payment of fifteen  
17 dollars (\$15.00) a license to engage in and conduct the business upon the condition that  
18 the person shall pay the tax accruing to the State under this Article; the person shall  
19 thereby be duly licensed and registered to engage in the business.

20 A license issued under this subsection shall be a continuing license until it becomes  
21 void or is revoked for failure to comply with the provisions of this Article. A license  
22 issued under this ~~section~~ subsection to a person, other than a person who makes only  
23 wholesale sales or only exempt sales, becomes void if, for a period of eighteen months,  
24 the license holder files no return or files returns showing no sales.

25 A retailer who sells tangible personal property at a flea market shall conspicuously  
26 display the retailer's sales tax license when making sales at the flea market."

27 Sec. 7. G.S. 105-164.6(f) reads as rewritten:

28 "(f) Every retailer engaged in business in this State selling or delivering tangible  
29 personal property for storage, use, or consumption in this State shall apply for and obtain  
30 from the Secretary upon payment of fifteen dollars (\$15.00) a license to engage in and  
31 conduct the business upon the condition that the person shall pay the tax accruing to the  
32 State under this Article; the person shall thereby be duly licensed and registered to  
33 engage in the business. ~~Except as hereinafter provided, a~~ A license issued under this  
34 subsection shall be a continuing license until it becomes void or is revoked for failure to  
35 comply with the provisions of this Article. A license issued under this subsection to a  
36 person, other than a person who makes only wholesale sales or only exempt sales,  
37 becomes void if, for a period of 18 months, the license holder files no return or files  
38 returns showing no sales.

39 ~~A license issued under this section becomes void if the license holder ceases to be~~  
40 ~~engaged in a business for which a tax is imposed by this Article and remains~~  
41 ~~continuously out of business for a period of five years. The burden of proving that a~~  
42 ~~license is still valid is on the license holder."~~

43 Sec. 8. G.S. 105-164.14 reads as rewritten:

1 **"§ 105-164.14. Certain refunds authorized.**

2 (a) Interstate Carriers. ~~– An interstate carrier is allowed a refund, in accordance~~  
3 ~~with this section, of part of the sales and use taxes paid by it on lubricants, repair parts,~~  
4 ~~and accessories purchased in this State for a motor vehicle, railroad car, locomotive, or~~  
5 ~~airplane the carrier operates. Any person~~ An 'interstate carrier' is a person who is engaged  
6 in transporting persons or property in interstate commerce for compensation ~~who~~  
7 compensation, ~~is subject to regulation by, and to the jurisdiction of, the Interstate~~  
8 Commerce Commission or the United States Department of Transportation and who  
9 Transportation, ~~and is required by either such~~ federal agency to keep records according to  
10 its standard classification of accounting generally accepted accounting principles  
11 (GAAP) or, in the case of a small certificated air carrier, is required by the U.S.  
12 Department of Transportation to make reports of financial and operating statistics, may  
13 secure a refund from the Secretary of Revenue with respect to sales or use tax paid by  
14 such person on purchases or acquisitions of lubricants, repair parts and accessories in this  
15 State for motor vehicles, railroad cars, locomotives, and airplanes operated by such  
16 person, upon the conditions described below. ~~statistics.~~ The Secretary of Revenue shall  
17 prescribe the periods of time, whether monthly, quarterly, ~~semiannually~~ semiannually, or  
18 otherwise, with respect to which refunds may be claimed, and shall prescribe the time  
19 within which, following such ~~these~~ periods, an application for refund may be made.

20 An applicant for refund shall furnish ~~such~~ the following information as ~~the Secretary~~  
21 ~~may require,~~ and any proof of the information required by the Secretary:

- 22 (1) A list identifying the lubricants, repair parts, and accessories purchased  
23 by the applicant inside or outside this State during the refund period.  
24 (2) The purchase price of the items listed in subdivision (1) of this  
25 subsection.  
26 (3) The sales and use taxes paid in this State on the listed items.  
27 (4) The number of miles the applicant's motor vehicles, railroad cars,  
28 locomotives, and airplanes were operated both inside and outside this  
29 State during the refund period.  
30 (5) Any other information required by the Secretary.

31 ~~including detailed information as to lubricants, repair parts and accessories wherever~~  
32 ~~purchased, whether within or without the State, acquired during the period with respect to~~  
33 ~~which a refund is sought, and the purchase price thereof, detailed information as to sales~~  
34 ~~and use tax paid in this State thereon, and detailed information as to the number of miles~~  
35 ~~such motor vehicles, railroad cars, locomotives, and airplanes were operated both within~~  
36 ~~this State, and without this State, during such period, together with satisfactory proof~~  
37 ~~thereof. The~~

38 For each applicant, the Secretary shall ~~thereupon~~ compute the amount to be refunded  
39 as follows. First, the Secretary shall determine the ratio of the number of miles the  
40 applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this  
41 State during the refund period to the number of miles it operated them both inside and  
42 outside this State during the refund period. Second, the Secretary shall determine the  
43 applicant's proportional liability for the refund period by multiplying this mileage ratio by

1 the purchase price of the items identified in subdivision (1) of this subsection and then  
2 multiplying the resulting product by the tax rate that would have applied to the items if  
3 they had all been purchased in this State. Third, the Secretary shall refund to each  
4 applicant the excess of the amount of sales and use taxes the applicant paid in this State  
5 during the refund period on these items over the applicant's proportional liability for the  
6 refund period. tax which would be due with respect to all lubricants, repair parts and  
7 accessories acquired during the refund period as though all such purchases were made in  
8 this State, but only on such proportion of the total purchase prices thereof as the total  
9 number of miles of operation of such applicants' motor vehicles, railroad cars,  
10 locomotives, and airplanes within this State bears to the total number of miles of  
11 operation of such applicants' motor vehicles, railroad cars, locomotives and airplanes  
12 within and without this State, and such amount of sales and use tax as the applicant has  
13 paid in this State during said refund period in excess of the amounts so computed shall be  
14 refunded to the applicant.

15 (b) Nonprofit Corporations. -- The Secretary of Revenue shall make refunds  
16 semiannually to hospitals not operated for profit (including hospitals and medical  
17 accommodations operated by an authority created under the Hospital Authorities Law,  
18 Article 2 of Chapter 131E of the General Statutes), educational institutions not operated  
19 for profit, ~~ehurches, orphanages and churches, orphanages,~~ and other charitable or  
20 religious institutions and organizations not operated for profit of sales and use taxes paid  
21 under this Article, except under G.S. ~~105-164.4(4a) and G.S. 105-164.4(4c),~~ 105-  
22 164.4(a)(4a) and G.S. 105-164.4(a)(4c), by ~~such these~~ institutions and organizations on  
23 direct purchases of tangible personal property for use in carrying on the work of ~~such the~~  
24 institutions or organizations. Sales and use tax liability indirectly incurred by ~~such one of~~  
25 ~~these institutions and or~~ organizations on building materials, supplies, ~~fixtures fixtures,~~  
26 and equipment ~~which shall that~~ become a part of or annexed to any building or structure  
27 that is owned or leased by the institution or organization and is being erected, ~~altered~~  
28 ~~altered,~~ or repaired for ~~such use by the institution or organization~~ institutions and  
29 ~~organizations~~ for carrying on ~~their its~~ nonprofit activities shall be construed as ~~is~~  
30 considered a sales or use tax liability incurred on direct purchases by ~~such institutions and~~  
31 ~~organizations,~~ and ~~such the institutions and organizations may obtain refunds of such~~  
32 ~~these taxes indirectly paid.~~ the institution or organization. The Secretary of Revenue  
33 shall also make refunds semiannually to all other hospitals not excluded by this  
34 subsection (not specifically excluded herein) of sales and use tax paid by them on  
35 medicines and drugs purchased for use in carrying out ~~the work of such hospitals.~~ their  
36 work. This subsection does not apply to organizations, corporations, and institutions that  
37 are owned and controlled by the United States, the State, or a unit of local government,  
38 except hospital facilities created under Article 2 of Chapter 131E of the General Statutes  
39 and nonprofit hospitals owned and controlled by a unit of local government that elect to  
40 receive semiannual refunds under this subsection instead of annual refunds under  
41 subsection (c). ~~In order to receive the refunds herein provided for, such institutions and~~  
42 ~~organizations shall file a written request for refund covering the first six months of the~~  
43 ~~calendar year on or before the fifteenth day of October next following the close of said~~

1 ~~period, and shall file a written request for refund covering the second six months of the~~  
2 ~~calendar year on or before the fifteenth day of April next following the close of that~~  
3 ~~period. Such requests for refund shall be substantiated by such proof as the Secretary of~~  
4 ~~Revenue may require, and no refund shall be made on applications not filed within the~~  
5 ~~time allowed by this section and in such manner as the Secretary may require. A request~~  
6 ~~for a refund must be in writing and must include any information and documentation~~  
7 ~~required by the Secretary. A request for a refund for the first six months of a calendar~~  
8 ~~year is due the following October 15; a request for a refund for the second six months of~~  
9 ~~a calendar year is due the following April 15.~~

10 (c) ~~Certain Governmental Entities. – A governmental entity listed in this~~  
11 ~~subsection is allowed an annual refund Upon receipt of timely applications for refund, the~~  
12 ~~Secretary of Revenue shall make refunds annually to all governmental entities, as~~  
13 ~~hereinafter defined, of sales and use tax paid by it under this Article, except under G.S.~~  
14 ~~105-164.4(4a) and G.S. 105-164.4(4c), by said governmental entities 105-164.4(a)(4a)~~  
15 ~~and G.S. 105-164.4(a)(4c), on direct purchases of tangible personal property. Sales and~~  
16 ~~use tax liability indirectly incurred by such governmental entities a governmental entity~~  
17 ~~on building materials, supplies, fixtures fixtures, and equipment which shall that become~~  
18 ~~a part of or annexed to any building or structure that is owned or leased by the~~  
19 ~~governmental entity and is being erected, altered altered, or repaired which is owned or~~  
20 ~~leased by such governmental entities shall be construed as for use by the governmental~~  
21 ~~entity is considered a sales or use tax liability incurred on direct purchases by the~~  
22 ~~governmental entity for the purpose of this subsection. such governmental entities, and~~  
23 ~~such entities may obtain refunds of such taxes indirectly paid. The refund provisions~~  
24 ~~contained in this subsection shall not apply to any governmental entities not specifically~~  
25 ~~named herein. In order to receive the refund A request for a refund must be in writing~~  
26 ~~and must include any information and documentation required by the Secretary. A~~  
27 ~~request for a refund is due within six months after the end of the governmental entity's~~  
28 ~~fiscal year. herein provided for, governmental entities shall file a written request for said~~  
29 ~~refund within six months of the close of the fiscal year of the governmental entities~~  
30 ~~seeking said refund, and such request for refund shall be substantiated by such records,~~  
31 ~~receipts and information as the Secretary may require. No refunds shall be made on~~  
32 ~~applications not filed within the time allowed by this section and in such manner as the~~  
33 ~~Secretary may otherwise require. The term "governmental entities," for the purposes of~~  
34 ~~this subsection, shall mean~~

35 This subsection applies only to the following governmental entities:

- 36 (1) A county.
- 37 (2) A city as defined in G.S. 160A-1.
- 38 (3) A metropolitan sewerage district or a metropolitan water district in this  
39 State.
- 40 (4) A water and sewer authority created under Chapter 162A of the General  
41 Statutes.
- 42 (5) A lake authority created by a board of county commissioners pursuant  
43 to an act of the General Assembly.

- 1           (6)    A sanitary district.  
2           (7)    A regional solid waste management authority created pursuant to G.S.  
3                153A-421.  
4           (8)    An area mental health, developmental disabilities, and substance abuse  
5                authority, other than a single-county area authority, established pursuant  
6                to Article 4 of Chapter 122C of the General Statutes.  
7           (9)    A district health department.  
8           (10) A regional council of governments created pursuant to G.S. 160A-470.  
9           (11) A regional planning and economic development commission or a  
10               regional economic development commission created pursuant to  
11               Chapter 158 of the General Statutes.  
12           (12) A regional planning commission created pursuant to G.S. 153A-391.  
13           (13) A regional sports authority created pursuant to G.S. 160A-479.  
14           (14) A public transportation authority created pursuant to Article 25 of  
15               Chapter 160A of the General Statutes.  
16           (15) A regional public transportation authority created pursuant to Article 26  
17               of Chapter 160A of the General Statutes.  
18           (16) A local airport authority that was created pursuant to a local act of the  
19               General Assembly and has at least one of the following characteristics:  
20               a.    It has all of the rights of a municipality.  
21               b.    A local act of the General Assembly declares it to be a  
22                     municipality.  
23               c.    A local act of the General Assembly specifically authorizes it to  
24                     receive a refund under this section.  
25           (17) A joint agency created by interlocal agreement pursuant to G.S. 160A-  
26               462 to operate a public broadcasting television station.  
27           (18) The North Carolina Low-Level Radioactive Waste Management  
28               Authority created pursuant to Chapter 104G of the General Statutes.  
29           (19) The North Carolina Hazardous Waste Management Commission created  
30               pursuant to Chapter 130B of the General Statutes.  
31           (20) A constituent institution of The University of North Carolina, but only  
32               with respect to sales and use tax paid by it for tangible personal property  
33               acquired by it through the expenditure of contract and grant funds.

34 ~~all counties, incorporated cities and towns, water and sewer authorities created and~~  
35 ~~existing under the provisions of Chapter 162A of the General Statutes, lake authorities~~  
36 ~~created by a board of county commissioners pursuant to an act of the General Assembly,~~  
37 ~~sanitary districts, regional councils of governments created pursuant to G.S. 160A-470,~~  
38 ~~area mental health, developmental disabilities, and substance abuse authorities (other than~~  
39 ~~single-county area authorities) established pursuant to Article 4 of Chapter 122C of the~~  
40 ~~General Statutes, district health departments, regional planning and economic~~  
41 ~~development commissions created pursuant to G.S. 158-14, regional sports authorities~~  
42 ~~created pursuant to G.S. 160A-479, regional economic development commissions created~~  
43 ~~pursuant to G.S. 158-8, regional planning commissions created pursuant to G.S. 153A-~~

1 ~~391, regional solid waste management authorities created pursuant to G.S. 153A-421,~~  
2 ~~public transportation authorities created pursuant to Article 25 of Chapter 160A of the~~  
3 ~~General Statutes, regional public transportation authorities created pursuant to Article 26~~  
4 ~~of Chapter 160A of the General Statutes, metropolitan sewerage districts and~~  
5 ~~metropolitan water districts in this State, the North Carolina Low-Level Radioactive~~  
6 ~~Waste Management Authority created pursuant to Chapter 104G of the General Statutes,~~  
7 ~~the North Carolina Hazardous Waste Management Commission created pursuant to~~  
8 ~~Chapter 130B of the General Statutes, a joint agency created by interlocal agreement~~  
9 ~~pursuant to G.S. 160A-462 to operate a public broadcasting television station, and the~~  
10 ~~Rockingham County Airport Authority. Notwithstanding the foregoing provisions of this~~  
11 ~~subsection, the constituent institutions of The University of North Carolina may obtain in~~  
12 ~~the manner prescribed by this subsection a refund of sales and use tax paid by them on or~~  
13 ~~after January 1, 1992, for tangible personal property acquired by them through the~~  
14 ~~expenditure of contract and grant funds.~~

15 (d) Penalties for Late Applications. ~~—~~ Refunds made pursuant to applications filed  
16 after the dates specified in subsections (b) and (c) above shall be ~~are~~ subject to the  
17 following penalties for late filing: applications filed within 30 days after said dates, the  
18 due date, twenty-five percent (25%); applications filed after 30 days but within six  
19 months after said dates, the due date, fifty percent (50%). However, refunds which are  
20 Refunds applied for after more than six months following said dates shall be ~~months after~~  
21 the due date are barred.

22 (e) State Agencies. ~~—~~ The State is allowed quarterly refunds of local sales and use  
23 taxes paid by a State agency on direct purchases of tangible personal property and local  
24 sales and use taxes paid indirectly by the State agency on building materials, supplies,  
25 fixtures, and equipment that become a part of or annexed to a building or structure that is  
26 owned or leased by the State agency and is being erected, altered, or repaired and is  
27 owned or leased for use by the State agency. This subsection does not apply to purchases  
28 for which a State agency is allowed a refund under subsection (c) of this section.

29 A person who pays local sales and use taxes on building materials or other tangible  
30 personal property for a State building project shall give the State agency for whose  
31 project the property was purchased a signed statement containing all of the following  
32 information:

- 33 (1) The date the property was purchased.
- 34 (2) The type of property purchased.
- 35 (3) The project for which the property was used.
- 36 (4) If the property was purchased in this State, the county in which it was  
37 purchased.
- 38 (5) If the property was not purchased in this State, the county in which the  
39 property was used.
- 40 (6) The amount of sales and use taxes paid.

41 If the property was purchased in this State, the person shall attach a copy of the sales  
42 receipt to the statement. A State agency to whom a statement is submitted shall verify the  
43 accuracy of the statement.

1 Within 15 days after the end of each calendar quarter, every State agency shall file  
2 with the Secretary a written application for a refund of taxes to which this subsection  
3 applies paid by the agency during the quarter. The application shall contain all  
4 information required by the Secretary. The Secretary shall credit the local sales and use  
5 tax refunds directly to the General Fund."

6 Sec. 9. Effective for taxable years beginning on or after January 1, 1995, G.S.  
7 105-228.90(b)(1) reads as rewritten:

8 "(1) Code. – The Internal Revenue Code as enacted as of January 1, 1994,  
9 1995, including any provisions enacted as of that date which become  
10 effective either before or after that date."

11 Sec. 10. G.S. 105-241.2(a) reads as rewritten:

12 "(a) Petition for Administrative Review. – Without having to pay the tax or  
13 additional tax assessed by the Secretary under this Chapter, any taxpayer may obtain  
14 from the Tax Review Board an administrative review with respect to the taxpayer's  
15 liability for the tax or additional tax assessed by the Secretary. Such a review may be  
16 obtained only if the taxpayer has obtained a hearing before the Secretary and the  
17 Secretary has rendered a final decision with respect to the taxpayer's liability. If a  
18 taxpayer has made a timely written demand for refund of an alleged overpayment and the  
19 Secretary has issued a decision denying part or all of the claimed refund, the taxpayer  
20 may obtain from the Tax Review Board an administrative review of the Secretary's  
21 decision. To obtain administrative review the taxpayer must take the following actions:

22 (1) Within 30 days after the Secretary's final decision is issued, file with the  
23 Tax Review Board, with a copy to the Secretary, notice of intent to file  
24 a petition for review.

25 (2) Within 60 days after ~~the Secretary's final decision is issued,~~  
26 filing a notice of intent under subdivision (1) of this subsection, file  
27 with the Tax Review Board, with a copy to the Secretary, a petition  
28 requesting administrative review and stating in concise terms the  
29 grounds upon which review is sought."

30 Sec. 11. G.S. 105-259(b) is amended by adding the following new  
31 subdivisions to read:

32 "(11a) To provide a copy of a return to the taxpayer who filed the return.

33 (11b) In the case of a return filed by a corporation, a partnership, a trust,  
34 or an estate, to provide a copy of the return or information on the  
35 return to a person who has a material interest in the return if, under  
36 the circumstances, section 6103(e)(1) of the Code would require  
37 disclosure to that person of any corresponding federal return or  
38 information.

39 (11c) In the case of a return of an individual who is legally incompetent  
40 or deceased, to provide a copy of the return to the legal  
41 representative of the estate of the incompetent individual or  
42 decedent."

43 Sec. 12. G.S. 105-434(a) reads as rewritten:

1       "(a) Tax. – An excise tax is levied on motor fuel sold, distributed, or used by a  
2 distributor within this State at a flat rate of seventeen and one-half cents (17 1/2¢) per  
3 gallon, plus a variable rate of either three and one-half cents (3 1/2¢) per gallon or seven  
4 percent (7%) of the average wholesale price of motor fuel for the applicable base period,  
5 whichever is greater. The Secretary of Revenue shall semiannually determine the  
6 average wholesale price of motor fuel using information on refiner and gas plant operator  
7 sales prices of finished motor gasoline and No. 2 diesel fuel for resale, published by the  
8 United States Department of Energy in the 'Monthly Energy Review,' or equivalent data.  
9 The Secretary shall determine the average wholesale price of motor fuel by computing  
10 the average sales price of finished motor gasoline for the base period, computing the  
11 average sales price for No. 2 diesel fuel for the base period, and then computing a  
12 weighted average of the results of the first two computations based on the proportion of  
13 tax collected under this Article on motor fuel and Article 36A on fuel for the base period.  
14 The Secretary shall notify affected taxpayers of the tax rate to be in effect for each six-  
15 month period beginning January 1 and July 1.

16       To facilitate administration of the motor fuel tax, the Secretary shall convert the  
17 wholesale percentage component to a cents-per-gallon rate. The rate for the six-month  
18 period beginning January 1 shall be computed from data published for the six-month base  
19 period ending on the preceding September 30, and the rate for the six-month period  
20 beginning July 1 shall be computed from data published for the six-month base period  
21 ending on the preceding March 31. The cents-per-gallon rate computed by the Secretary  
22 shall be rounded to the nearest one-tenth of a cent (1/10¢). If the cents-per-gallon rate  
23 computed by the Secretary is exactly between ~~two-tenths~~ two-tenths of a cent, the rate  
24 shall be rounded up to the higher of the two."

25       Sec. 13. G.S. 105-449.20 reads as rewritten:

26       "**§ 105-449.20. When Secretary may estimate tax liability of supplier or user-seller.**

27       Whenever a supplier or a user-seller fails to file a report under G.S. 105-449.19 or  
28 G.S. 105-449.21 or files a false report under one of those statutes, the Secretary shall  
29 determine, from any information obtainable, the number of gallons of fuel with respect to  
30 which the supplier or user-seller owes tax under this Article. When a user-seller sells or  
31 uses more fuel than the user-seller reports to the Secretary as having been purchased from  
32 a supplier, the user-seller is presumed to have acquired the unreported fuel tax-free to  
33 operate a motor vehicle. When a user-seller sells or uses more fuel to operate a motor  
34 vehicle than the user-seller reports to the Secretary as having been purchased from a  
35 supplier to operate a motor vehicle, the user-seller is presumed to have acquired tax-free  
36 to operate a motor vehicle all fuel not reported as having been acquired to operate a  
37 motor vehicle."

38       Sec. 14. G.S. 153A-158 reads as rewritten:

39       "**§ 153A-158. Power to acquire ~~property in other counties.~~ property.**

40       A county may acquire, by gift, grant, devise, bequest, exchange, purchase, lease, or  
41 any other lawful method, the fee or any lesser interest in real or personal property for use  
42 by the county or any department, board, commission, or agency of the county. In

1 exercising the power of eminent domain a county shall use the procedures of Chapter  
2 40A."

3 Sec. 15. (a) Chapter 885 of the 1989 Session Laws, as amended by Chapters 120,  
4 533, 832, 848, 865, and 1001 of the 1991 Session Laws, as codified as G.S. 153A-157,  
5 and as further amended by Chapters 611, 612, 614, 622, 623, 642, and 655 of the 1993  
6 Session Laws, is recodified as G.S. 153A-158.1(a).

7 (b) G.S. 153A-158.1, as amended by subsection (a) of this section, reads as  
8 rewritten:

9 "**§ 153A-158.1. School property in certain counties; construction and other**  
10 **improvements; transfers. Acquisition and improvement of school property**  
11 **in certain counties.**

12 (a) **Power to acquire property in certain counties. Acquisition by County.** – A  
13 county may acquire, by gift, grant, devise, bequest, exchange, purchase, lease, or any  
14 other acquire, by any lawful method, the fee or any other lesser any interest in real or  
15 personal property for use by the county or any department, board, commission, or agency  
16 of the county or a school administrative unit within the county. In exercising the power  
17 of eminent domain a county shall use the procedures of Chapter 40A. ~~The~~ The county  
18 shall use its authority under this section subsection to acquire the fee or any lesser interest  
19 in real or personal property for use by a school administrative unit within the county only  
20 upon the request of the board of education of that school administrative unit and after a  
21 public hearing.

22 This section applies to ~~Ashe, Avery, Bladen, Brunswick, Cabarrus, Carteret, Chowan,~~  
23 ~~Columbus, Duplin, Forsyth, Franklin, Harnett, Haywood, Iredell, Johnston, Lee, Macon,~~  
24 ~~Nash, Orange, Pasquotank, Pender, Richmond, Rowan, Sampson, and Stanly Counties.~~

25 (b) **Construction or Improvement by County.** – A county may construct, equip,  
26 expand, improve, renovate, or otherwise make available property for use by a school  
27 administrative unit within the county. ~~This subsection applies only to Ashe, Avery,~~  
28 ~~Brunswick, Chowan, Forsyth, Harnett, Haywood, Lee, Macon, Nash, Orange,~~  
29 ~~Pasquotank, Richmond, and Sampson Counties and to local boards of education for~~  
30 ~~school administrative units in or for Ashe, Avery, Brunswick, Chowan, Forsyth, Harnett,~~  
31 ~~Haywood, Lee, Macon, Nash, Orange, and Pasquotank Counties.~~

32 (c) **Lease or Sale by Board of Education.** – Notwithstanding the provisions of G.S.  
33 115C-518 and G.S. 160A-274, a local board of education ~~may~~ may, in connection with  
34 additions, improvements, renovations, or repairs to all or part of any of its property, lease  
35 or sell ~~any of its~~ the property to the board of commissioners of the county in which the  
36 property is located for any price negotiated between the two boards. ~~This subsection~~  
37 ~~applies only to Ashe, Avery, Brunswick, Cabarrus, Carteret, Chowan, Duplin, Forsyth,~~  
38 ~~Harnett, Haywood, Iredell, Lee, Macon, Nash, Orange, Pasquotank, Rowan, Sampson,~~  
39 ~~and Stanley Counties and to local boards of education for school administrative units in~~  
40 ~~or for these counties. This subsection applies only to sales and leases of property in~~  
41 ~~connection with additions, improvements, renovations, or repairs to the property or to~~  
42 ~~some part of the property.~~

1 (d) Board of Education May Contract for Construction. – Notwithstanding the  
2 provisions of G.S. 115C-40 and G.S. 115C-521, ~~local boards of education are authorized~~  
3 ~~to a local board of education may enter into contracts for the erection or repair of school~~  
4 buildings upon sites owned in fee simple by one or more counties in which the local  
5 school administrative ~~units are~~ unit is located. ~~This subsection applies only to Ashe,~~  
6 ~~Avery, Brunswick, Chowan, Forsyth, Harnett, Lee, Nash, Orange, Pasquotank, and~~  
7 ~~Sampson Counties and to local boards of education for school administrative units in or~~  
8 ~~for those counties.~~

9 (e) Scope. – This section applies to Ashe, Avery, Bladen, Brunswick, Cabarrus,  
10 Carteret, Chowan, Columbus, Duplin, Forsyth, Franklin, Harnett, Haywood, Iredell,  
11 Johnston, Lee, Macon, Nash, Orange, Pasquotank, Pender, Richmond, Rowan, Sampson,  
12 Stanly, and Watauga Counties."

13 Sec. 16. As amended by this act, G.S. 153A-158.1 now incorporates and  
14 codifies, in addition to Chapter 885 of the 1989 Session Laws as amended, the following:  
15 Chapter 487 of the 1989 Session Laws, Sections 2 and 3 of Chapter 848 of the 1991  
16 Session Laws, Sections 2 and 3 of Chapter 1001 of the 1991 Session Laws, Sections 2  
17 and 3 of Chapter 611 of the 1993 Session Laws, Sections 2, 3, and 4 of Chapter 612 of  
18 the 1993 Session Laws, Sections 3, 4, and 5 of Chapter 614 of the 1993 Session Laws,  
19 Sections 2, 3, and 4 of Chapters 622 and 623 of the 1993 Session Laws, Section 3(c),  
20 Section 3(e), and the first sentence of Section 3(b) of Chapter 642 of the 1993 Session  
21 Laws, and Sections 2, 3, and 4 of Chapter 655 of the 1993 Session Laws.

22 Sec. 17. Section 4 of Chapter 681 of the 1993 Session Laws reads as rewritten:  
23 "Sec. 4. This act is effective for taxable years beginning on or after January 1, ~~1994.~~  
24 1994, and ending on or before February 28, 1996."

25 Sec. 18. Effective January 1, 1995, Section 14 of Chapter 745 of the 1993  
26 Session Laws is repealed.

27 Sec. 19. Section 1 of Chapter 922 of the 1989 Session Laws reads as rewritten:  
28 "Section 1. Part IV of Chapter 908 of the 1983 Session Laws, as amended by Chapter  
29 821 of the 1989 Session Laws, is further amended by adding at the end of Section 7 a  
30 new subsection to read:

31 '(d) Refunds. —The local administrative authority shall refund to a nonprofit or  
32 governmental entity the prepared food and beverage tax paid by the entity on eligible  
33 purchases of prepared foods and beverages. A nonprofit or governmental entity's  
34 purchase of prepared food and beverages is eligible for a refund under this subsection if  
35 the entity is entitled to a refund under G.S. ~~105-164.14~~ 105-164.14(b) or (c) of the sales  
36 and use tax paid on the purchase. The time limitations, application requirements,  
37 penalties, and restrictions provided in G.S. 105-164.14(b) and (d) ~~shall~~ apply to refunds  
38 to nonprofit entities; the time limitations, application requirements, penalties, and  
39 restrictions provided in G.S. 105-164.14(c) and (d) ~~shall~~ apply to refunds to  
40 governmental entities. When an entity applies for a refund of the prepared food and  
41 beverages tax paid by it on purchases, it shall attach to its application a copy of the  
42 application submitted to the Department of Revenue under G.S. 105-164.14 for a refund  
43 of the sales and use tax on the same purchases. An applicant for a refund under this

1 subsection shall provide any information required by the local administrative authority to  
2 substantiate the claim."

3       Sec. 20. Subsection 4(e) of Chapter 449 of the 1985 Session Laws, as  
4 amended by Chapter 826 of the 1985 Session Laws and Chapter 177 of the 1991 Session  
5 Laws, reads as rewritten:

6       "(e) Refunds. ~~—~~ The county shall refund to a nonprofit or governmental entity the  
7 prepared food and beverage tax paid by the entity on eligible purchases of prepared food  
8 and beverages. A nonprofit or governmental entity's purchase of prepared food and  
9 beverages is eligible for a refund under this subsection if the entity is entitled to a refund  
10 under G.S. ~~105-164.14~~ 105-164.14(b) or (c) of the sales and use tax paid on the purchase.  
11 The time limitations, application requirements, penalties, and restrictions provided in  
12 G.S. 105-164.14(b) and (d) ~~shall~~ apply to refunds to nonprofit entities; the time,  
13 limitations, application requirements, penalties, and restrictions provided in G.S. 105-  
14 164.14(c) and (d) ~~shall~~ apply to refunds to governmental entities. When an entity applies  
15 for a refund of the prepared food and beverages tax paid by it on purchases, it shall attach  
16 to its application a copy of the application submitted to the Department of Revenue under  
17 G.S. 105-164.14 for a refund of the sales and use tax on the same purchases. An  
18 applicant for a refund under this subsection shall provide any information required by the  
19 county to substantiate the claim."

20       Sec. 21. Section 6 of Chapter 413 of the 1993 Session Laws reads as rewritten:

21       "Sec. 6. Refunds. – The county shall refund to a nonprofit or governmental entity the  
22 prepared food and beverage tax paid by the entity on eligible purchases of prepared food  
23 and beverages. A nonprofit or governmental entity's purchase of prepared food and  
24 beverages is eligible for a refund under this section if the entity is entitled to a refund  
25 under G.S. ~~105-164.14~~ 105-164.14(b) or (c) of ~~local~~ the sales and use tax paid on the  
26 purchase. The time limitations, application requirements, penalties, and restrictions  
27 provided in G.S. 105-164.14(b) and (d) ~~shall~~ apply to refunds to nonprofit entities; the  
28 time, limitations, application requirements, penalties, and restrictions provided in G.S.  
29 ~~105-164.14(e), (d), and (e)~~ 105-164.14(c) and (d) ~~shall~~ apply to refunds to governmental  
30 entities. When an entity applies for a refund of the prepared food and beverages tax paid  
31 by it on purchases, it shall attach to its application a copy of the application submitted to  
32 the Department of Revenue under G.S. 105-164.14 for a refund of the sales and use tax  
33 on the same purchases. An applicant for a refund under this section shall provide any  
34 information required by the county to substantiate the claim."

35       Sec. 22. Subsection 1(f) of Chapter 449 of the 1993 Session Laws reads as  
36 rewritten:

37       "(f) Refunds. – The town shall refund to a nonprofit or governmental entity the  
38 prepared food and beverage tax paid by the entity on eligible purchases of prepared food  
39 and beverages. A nonprofit or governmental entity's purchase of prepared food and  
40 beverages is eligible for a refund under this subsection if the entity is entitled to a refund  
41 under G.S. ~~105-164.14~~ 105-164.14(b) or (c) of ~~local~~ the sales and use tax paid on the  
42 purchase. The time limitations, application requirements, penalties, and restrictions  
43 provided in G.S. 105-164.14(b) and (d) ~~shall~~ apply to refunds to nonprofit entities; the

1 time, limitations, application requirements, penalties, and restrictions provided in G.S.  
2 ~~105-164.14(e), (d), and (e)~~ 105-164.14(c) and (d) shall apply to refunds to governmental  
3 entities. When an entity applies for a refund of the prepared food and beverage tax paid  
4 by it on purchases, it shall attach to its application a copy of the application submitted to  
5 the Department of Revenue under G.S. 105-164.14 for a refund of the sales and use tax  
6 on the same purchases. An applicant for a refund under this subsection shall provide any  
7 information required by the town to substantiate the claim."

8           Sec. 23. Chapters 781 and 782 of the 1971 Session Laws are repealed.

9           Sec. 24. Except as otherwise provided in this act, this act is effective upon  
10 ratification.