

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1327

Short Title: No Tax on Gas Cities.

(Public)

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Sponsors: Senators Dalton, Phillips; Cooper, Hoyle, Martin of Pitt, Phillips, Plyler, Purcell, and Warren.

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Referred to: Finance.

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May 27, 1998

1 A BILL TO BE ENTITLED  
2 AN ACT TO PRESERVE THE TAX-EXEMPT STATUS FOR PIPED NATURAL GAS  
3 SOLD BY MUNICIPALITIES, TO MAKE THE TAXES ON OTHER SALES OF  
4 PIPED NATURAL GAS MORE UNIFORM, AND TO LIMIT THE SERVICE  
5 AREA A MUNICIPALITY MAY SERVE WITH PIPED NATURAL GAS.

6 The General Assembly of North Carolina enacts:

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

9 **"ARTICLE 5E.**  
10 **"PIPED NATURAL GAS TAX.**  
11 **"§ 105-187.40. Definitions.**

12 The definitions in G.S. 105-228.90 and the following definitions apply in this Article:

- 13 (1) Gas city. – A city in this State that operated a piped natural gas  
14 distribution system as of July 1, 1998. These cities are Bessemer City,  
15 Greenville, Kings Mountain, Lexington, Monroe, Rocky Mount,  
16 Shelby, and Wilson.
- 17 (2) Local distribution company. – A natural gas company to whom the  
18 North Carolina Utilities Commission has issued a franchise under  
19 Chapter 62 of the General Statutes to serve an area of this State.

1           (3) Sales customer. – An end-user who does not have direct access to an  
2 interstate gas pipeline and whose piped natural gas is delivered by the  
3 seller of the gas.

4           (4) Transportation customer. – An end-user who does not have direct access  
5 to an interstate gas pipeline and whose piped natural gas is delivered by  
6 a person who is not the seller of the gas.

7 **"§ 105-187.41. Tax imposed on piped natural gas.**

8           (a) Scope. – An excise tax is imposed on piped natural gas received for  
9 consumption in this State. This tax is imposed in lieu of a sales and use tax and a  
10 percentage gross receipts tax on piped natural gas.

11           (b) Rate. – The tax rate is set in the table below. The tax rate is based on monthly  
12 therm volumes of piped natural gas received by the end-user of the gas. If an end-user  
13 receives piped natural gas that is metered through two or more separate measuring  
14 devices, the tax is calculated separately on the volume metered through each device  
15 rather than on the total volume metered through all measuring devices.

	Monthly Volume of	Rate Per Therm
	Therms Received	
18 <u>First 200</u>		<u>\$.047</u>
19	<u>201 to 15,000</u>	<u>.027</u>
20	<u>Over 15,001</u>	<u>.022</u>

21           (c) Gas City Exemption. – The tax imposed by this section does not apply to piped  
22 natural gas received by a gas city for consumption by that city or to piped natural gas  
23 delivered by a gas city to a sales or transportation customer of the gas city.

24 **"§ 105-187.42. Liability for the tax.**

25 The excise tax imposed by this section on piped natural gas is payable as follows:

26           (1) For piped natural gas delivered by a local distribution company to a  
27 sales or transportation customer, the tax is payable by the local  
28 distribution company.

29           (2) For piped natural gas delivered by a person who is not a local  
30 distribution company to a sales or transportation customer, the tax is  
31 payable by that person.

32           (3) For piped natural gas received by a person by means of direct access to  
33 an interstate gas pipeline for consumption by that person, the tax is  
34 payable by that person.

35 **"§ 105-187.43. Payment of the tax.**

36           (a) Monthly Return. – The tax imposed by this Article is payable monthly to the  
37 Secretary. A monthly tax payment is due by the last day of the month that follows the  
38 month in which the tax accrues. The tax imposed by this Article on piped natural gas  
39 delivered to a sales or transportation customer accrues when the gas is delivered. The tax  
40 payable on piped natural gas received by a person who has direct access to an interstate  
41 pipeline for consumption by that person accrues when the gas is received.

42           (b) Small Underpayments. – A person is not subject to interest on or penalties for  
43 an underpayment of a monthly amount due if the person timely pays at least ninety-five

1 percent (95%) of the amount due and includes the underpayment with the next return the  
2 person files.

3 **"§ 105-187.44. Distribution of part of tax proceeds to cities.**

4 (a) City Information. – A monthly return filed under this Article must indicate the  
5 amount of tax attributable to the following: if a tax return does not state this information,  
6 the Secretary must determine how much of the tax proceeds are to be attributed to each  
7 city:

8 (1) Piped natural gas delivered during the month to sales or transportation  
9 customers in each city in the State.

10 (2) Piped natural gas received during the month in each city in the State by  
11 persons who have direct access to an interstate gas pipeline and who  
12 receive the gas for their own consumption.

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

17 **"§ 105-187.45. Information exchange and information returns.**

18 (a) Utilities Information. – The North Carolina Utilities Commission or the Public  
19 Staff of that Commission must give the Secretary a list of the entities that receive piped  
20 natural gas from an interstate pipeline and any other information available to the  
21 Commission that the Secretary asks for in administering the tax imposed by this Article.

22 (b) Information Return. – The Secretary may require the operator of an interstate  
23 pipeline to report the amount of piped natural gas taken from the pipeline in this State,  
24 the persons that received the gas, and the volume received by each person.

25 **"§ 105-187.46. Records and audits.**

26 (a) Records. – A person who is required to file a return under this Article must  
27 keep a record of all documents used to determine information provided in the return. The  
28 records must be kept for three years after the due date of the return to which the records  
29 apply.

30 (b) Audits. – The Secretary may audit a person who is required to file a return  
31 under this Article."

32 Section 2. G.S. 105-116 reads as rewritten:

33 **"§ 105-116. Franchise or privilege tax on electric power, ~~natural gas,~~ water, and**  
34 **sewerage companies.**

35 (a) Tax. – An annual franchise or privilege tax is imposed on the following:

36 (1) An electric power company engaged in the business of furnishing  
37 electricity, electric lights, current, or power.

38 (2) ~~A natural gas company engaged in the business of furnishing piped~~  
39 ~~natural gas.~~

40 (2a) A regional natural gas district created under Article 28 of Chapter 160A  
41 of the General Statutes.

42 (3) A water company engaged in owning or operating a water system  
43 subject to regulation by the North Carolina Utilities Commission.

- 1           (4) A public sewerage company engaged in owning or operating a public  
2 sewerage system.

3           The tax on an electric power company is three and twenty-two hundredths percent  
4 (3.22%) of the company's taxable gross receipts from the business of furnishing  
5 electricity, electric lights, current, or power. ~~The tax on a natural gas company is three and~~  
6 ~~twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from the~~  
7 ~~business of furnishing piped natural gas.~~ The tax on a regional natural gas district is three  
8 and twenty-two hundredths percent (3.22%) of the district's taxable gross receipts from  
9 the furnishing of piped natural gas. The tax on a water company is four percent (4%) of  
10 the company's taxable gross receipts from owning or operating a water system subject to  
11 regulation by the North Carolina Utilities Commission. The tax on a public sewerage  
12 company is six percent (6%) of the company's taxable gross receipts from owning or  
13 operating a public sewerage company. A company's taxable gross receipts are its gross  
14 receipts from business inside the State less the amount of gross receipts from sales  
15 reported under subdivision (b)(2). A company that engages in more than one business  
16 taxed under this section shall pay tax on each business. A company is allowed a credit  
17 against the tax imposed by this section for the company's investments in certain entities  
18 in accordance with Division V of Article 4 of this Chapter.

19           (b) Report and Payment. – The tax imposed by this section is payable monthly or  
20 quarterly as specified in this subsection. A report is due quarterly. An electric power  
21 ~~company, a natural gas company, or a regional natural gas district company~~ shall pay tax  
22 monthly. A monthly tax payment is due by the last day of the month that follows the  
23 month in which the tax accrues, except the payment for tax that accrues in May. The  
24 payment for tax that accrues in May is due by June 25. A taxpayer is not subject to  
25 interest on or penalties for an underpayment of a monthly amount due if the taxpayer  
26 timely pays at least ninety-five percent (95%) of the amount due and includes the  
27 underpayment with the next report the company files. A water company or a public  
28 sewerage company shall pay tax quarterly when filing a report.

29           A quarterly report covers a calendar quarter and is due by the last day of the month  
30 that follows the quarter covered by the report. A taxpayer shall submit a report on a form  
31 provided by the Secretary. The report shall include the taxpayer's gross receipts from all  
32 property it owned or operated during the reporting period in connection with its business  
33 taxed under this section and shall contain the following information:

- 34           (1) The taxpayer's gross receipts for the reporting period from business  
35 inside and outside this State, stated separately.
- 36           (2) The taxpayer's gross receipts from commodities or services described in  
37 subsection (a) that are sold to a vendee subject to the tax levied by this  
38 section or to a joint agency established under ~~G.S. Chapter 159B~~ Chapter  
39 159B of the General Statutes or a city having an ownership share in a  
40 project established under that Chapter.
- 41           (3) The amount of and price paid by the taxpayer for commodities or  
42 services described in subsection (a) that are purchased from others  
43 engaged in business in this State and the name of each vendor.

- 1           (4) For an electric power ~~company, a natural gas company, or a regional natural~~  
2           ~~gas district, company~~ the entity's gross receipts from the sale within each  
3           city of the commodities and services described in subsection (a).

4 A taxpayer ~~shall~~ must report its gross receipts on an accrual basis. If a taxpayer's report  
5 does not state the taxpayer's taxable gross receipts derived within a city, the Secretary  
6 must determine a practical method of allocating part of the taxpayer's taxable gross  
7 receipts to the city.

8       (e) ~~Gas Special Charges.~~—Gross receipts of a natural gas company do not include  
9 the following:

- 10           (1) ~~Special charges collected within this State by the company pursuant to~~  
11           ~~drilling and exploration surcharges approved by the North Carolina~~  
12           ~~Utilities Commission, if the surcharges are segregated from the other~~  
13           ~~receipts of the company and are devoted to drilling, exploration, and~~  
14           ~~other means to acquire additional supplies of natural gas for the account~~  
15           ~~of natural gas customers in North Carolina and the beneficial interest in~~  
16           ~~the surcharge collections is preserved for the natural gas customers~~  
17           ~~paying the surcharges under rules established by the Commission.~~

- 18           (2) ~~Natural gas expansion surcharges imposed under G.S. 62-158.~~

19       (d) Distribution. – Part of the taxes imposed by this section on electric power  
20 companies, natural gas companies, and regional natural gas districts is distributed to cities  
21 under G.S. 105-116.1.

22       (e) Local Tax. – So long as there is a distribution to cities from the tax imposed by  
23 this section, no city shall impose or collect any greater franchise, privilege or license  
24 taxes, in the aggregate, on the businesses taxed under this section, than was imposed and  
25 collected on or before January 1, 1947. ~~If any municipality shall have collected any privilege,~~  
26 ~~license or franchise tax between January 1, 1947, and April 1, 1949, in excess of the tax~~  
27 ~~collected by it prior to January 1, 1947, then upon distribution of the taxes imposed by this~~  
28 ~~section to municipalities, the amount distributable to any municipality shall be credited with such~~  
29 ~~excess payment.~~

30       (f) ~~Gas City Exemption.~~—The tax imposed by this section does not apply to the  
31 following cities that operate their own piped natural gas systems: ~~Bessemer City, Kings~~  
32 ~~Mountain, Lexington, Shelby, Greenville, Monroe, Rocky Mount, and Wilson."~~

33           Section 3. G.S. 105-116.1 reads as rewritten:

34 **"§ 105-116.1. Distribution of gross receipts taxes to cities.**

35       (a) Definitions. – The following definitions apply in this section:

- 36           (1) Freeze deduction. – The amount by which the percentage distribution  
37           amount of a city was required to be reduced in fiscal year 1995-96 in  
38           determining the amount to distribute to the city.  
39           (2) Percentage distribution amount. – Three and nine hundredths percent  
40           (3.09%) of the gross receipts derived by an electric power ~~company, a~~  
41           ~~natural gas company, a regional natural gas district, company~~ and a  
42           telephone company from sales within a city that are taxable under G.S.  
43           105-116 or G.S. 105-120.

1 (b) Distribution. – The Secretary must distribute to the cities part of the taxes  
2 collected under this Article on electric power ~~companies, natural gas companies, regional~~  
3 ~~natural gas districts, companies~~ and telephone companies. Each city's share for a calendar  
4 quarter is the percentage distribution amount for that city for that quarter minus one-  
5 fourth of the city's hold-back amount and one-fourth of the city's proportionate share of  
6 the annual cost to the Department of administering the distribution. The Secretary must  
7 make the distribution within 75 days after the end of each calendar quarter.

8 (c) Limited Hold-Harmless Adjustment. – The hold-back amount for a city that,  
9 in the 1995-96 fiscal year, received from gross receipts taxes less than ninety-five percent  
10 (95%) of the amount it received in the 1990-91 fiscal year is the amount determined by  
11 the following calculation:

- 12 (1) Adjust the city's 1995-96 distribution by adding the city's freeze  
13 deduction to the amount distributed to the city for that year.
- 14 (2) Compare the adjusted 1995-96 amount with the city's 1990-91  
15 distribution.
- 16 (3) If the adjusted 1995-96 amount is less than or equal to the city's 1990-  
17 91 distribution, the hold-back amount for the city is zero.
- 18 (4) If the adjusted 1995-96 amount is more than the city's 1990-91  
19 distribution, the hold-back amount for the city is the city's freeze  
20 deduction minus the difference between the city's 1990-91 distribution  
21 and the city's 1995-96 distribution.

22 (d) Allocation of Hold-Harmless Adjustment. – The hold-back amount for a city  
23 that, in the 1995-96 fiscal year, received from gross receipts taxes at least ninety-five  
24 percent (95%) of the amount it received in the 1990-91 fiscal year is the amount  
25 determined by the following calculation:

- 26 (1) Determine the amount by which the freeze deduction is reduced for all  
27 cities whose hold-back amount is determined under subsection (c) of  
28 this section. This amount is the total hold-harmless adjustment.
- 29 (2) Determine the amount of gross receipts taxes that would be distributed  
30 for the quarter to cities whose hold-back amount is determined under  
31 this subsection if these cities received their percentage distribution  
32 amount minus one-fourth of their freeze deduction.
- 33 (3) For each city included in the calculation in subdivision (2) of this  
34 subsection, determine that city's percentage share of the amount  
35 determined under that subdivision.
- 36 (4) Add to the city's freeze deduction an amount equal to the city's  
37 percentage share under subdivision (3) of this subsection multiplied by  
38 the total hold-harmless adjustment."

39 Section 4. G.S. 105-164.3(25) reads as rewritten:

40 "(25) 'Utility' means an electric power ~~company, a gas company, a regional~~  
41 ~~natural gas district, company~~ or a telephone company that is subject to a  
42 privilege tax based on gross receipts under G.S. 105-116 or 105-120, a  
43 business entity that provides local, toll, or private telecommunications

1 service as defined by G.S. ~~405-120(e)~~ 105-120(e), or a municipality that  
2 sells electric power, other than a municipality whose only wholesale  
3 supplier of electric power is a federal agency and who is required by a  
4 contract with that federal agency to make payments in lieu of taxes."

5 Section 5. G.S. 105-164.4(a) reads as rewritten:

6 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the  
7 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four  
8 percent (4%).

9 (1) The general rate of tax applies to the sales price of each item or article  
10 of tangible personal property that is sold at retail and is not subject to  
11 tax under another subdivision in this section.

12 (1a) The rate of two percent (2%) applies to the sales price of each  
13 manufactured home sold at retail, including all accessories attached to  
14 the manufactured home when it is delivered to the purchaser. The  
15 maximum tax is three hundred dollars (\$300.00) per article. Each  
16 section of a manufactured home that is transported separately to the site  
17 where it is to be erected is a separate article.

18 (1b) The rate of three percent (3%) applies to the sales price of each aircraft,  
19 boat, railway car, or locomotive sold at retail, including all accessories  
20 attached to the item when it is delivered to the purchaser. The  
21 maximum tax is one thousand five hundred dollars (\$1,500) per article.

22 (1c) The rate of one percent (1%) applies to the sales price of the following  
23 articles:

24 a. Horses or mules by whomsoever sold.

25 b. Semen to be used in the artificial insemination of animals.

26 c. Sales of fuel, other than ~~electricity or piped natural gas, electricity,~~  
27 to farmers to be used by them for any farm purposes other than  
28 preparing food, heating ~~dwellings-dwellings~~, and other household  
29 purposes. The quantity of fuel purchased or used at any one time  
30 shall not in any manner be a determinative factor as to whether  
31 any sale or use of fuel is or is not subject to the one percent (1%)  
32 rate of tax imposed ~~herein~~ by this subdivision.

33 d. Sales of fuel, other than ~~electricity or piped natural gas, electricity,~~  
34 to manufacturing industries and manufacturing plants for use in  
35 connection with the operation of such industries and plants other  
36 than sales of fuels to be used for residential heating purposes.  
37 The quantity of fuel purchased or used at any one time shall not  
38 in any manner be a determinative factor as to whether any sale or  
39 use of fuel is or is not subject to the rate of tax provided in this  
40 subdivision.

41 e. Sales of fuel, other than ~~electricity or piped natural gas, electricity,~~  
42 to commercial laundries or to pressing and dry-cleaning  
43 establishments for use in machinery used in the direct

1 performance of the laundering or the pressing and cleaning  
2 service.

3 f. Sales to freezer locker plants of wrapping paper, cartons and  
4 supplies consumed directly in the operation of such plant.

5 (1d) The rate of one percent (1%) applies to the sales price of the following  
6 articles. The maximum tax is eighty dollars (\$80.00) per article.

7 a. Sales to a farmer of machines and machinery, and parts and  
8 accessories for these machines and machinery, for use by the  
9 farmer in the planting, cultivating, harvesting, or curing of farm  
10 crops or in the production of dairy products, eggs, or animals. A  
11 'farmer' includes a dairy operator, a poultry farmer, an egg  
12 producer, a livestock farmer, a farmer of crops, and a farmer of  
13 an aquatic species, as defined in G.S. 106-758. Items that are  
14 exempt from tax under G.S. 105-164.13(4c) are not subject to tax  
15 under this section.

16 The term 'machines and machinery' as used in this  
17 subdivision is defined as follows:

18 The term shall include all vehicular implements, designed and  
19 sold for any use defined in this subdivision, which are operated,  
20 drawn or propelled by motor or animal power, but shall not  
21 include vehicular implements which are operated wholly by  
22 hand, and shall not include any motor vehicles required to be  
23 registered under Chapter 20 of the General Statutes.

24 The term shall include all nonvehicular implements and  
25 mechanical devices designed and sold for any use defined in this  
26 subdivision, which have moving parts, or which require the use  
27 of any motor or animal power, fuel, or electricity in their  
28 operation but shall not include nonvehicular implements which  
29 have no moving parts and are operated wholly by hand.

30 The term shall also include metal flues sold for use in curing  
31 tobacco, whether such flues are attached to handfired furnaces or  
32 used in connection with mechanical burners.

33 b. Sales of mill machinery or mill machinery parts and accessories  
34 to manufacturing industries and plants, and sales to contractors  
35 and subcontractors purchasing mill machinery or mill machinery  
36 parts and accessories for use by them in the performance of  
37 contracts with manufacturing industries and plants, and sales to  
38 subcontractors purchasing mill machinery or mill machinery  
39 parts and accessories for use by them in the performance of  
40 contracts with general contractors who have contracts with  
41 manufacturing industries and plants. As used in this paragraph,  
42 the term 'manufacturing industries and plants' does not include  
43 delicatessens, cafes, cafeterias, restaurants, and other similar



- 1                   retailers that are principally engaged in the retail sale of foods  
2                   prepared by them for consumption on or off their premises.
- 3                   c.       Sales of central office equipment and switchboard and private  
4                   branch exchange equipment to telephone companies regularly  
5                   engaged in providing telephone service to subscribers on a  
6                   commercial basis, and sales to these companies of prewritten  
7                   computer programs used in providing telephone service to their  
8                   subscribers.
- 9                   d.       Sales to commercial laundries or to pressing and dry cleaning  
10                  establishments of machinery used in the direct performance of  
11                  the laundering or the pressing and cleaning service and of parts  
12                  and accessories thereto.
- 13                 e.       Sales to freezer locker plants of machinery used in the direct  
14                  operation of said freezer locker plant and of parts and accessories  
15                  thereto.
- 16                 f.       Sales of broadcasting equipment and parts and accessories  
17                  thereto and towers to commercial radio and television companies  
18                  which are under the regulation and supervision of the Federal  
19                  Communications Commission.
- 20                 g.       Sales to farmers of bulk tobacco barns and racks and all parts and  
21                  accessories thereto and similar apparatus used for the curing and  
22                  drying of any farm produce.
- 23                 h.       Sales to farmers of grain, feed or soybean storage facilities and  
24                  accessories thereto, whether or not dryers are attached, and all  
25                  similar apparatus and accessories thereto for the storage of grain,  
26                  feed or soybeans.
- 27                 i.       Sales of containers to farmers or producers for use in the  
28                  planting, producing, harvesting, curing, marketing, packaging,  
29                  sale, or transporting or delivery of their products when such  
30                  containers do not go with and become part of the sale of their  
31                  products at wholesale or retail.
- 32                 (1e)   The rate of three percent (3%) applies to the sales price of each mobile  
33                  classroom or mobile office sold at retail, including all accessories  
34                  attached to the mobile classroom or mobile office when it is delivered to  
35                  the purchaser. The maximum tax is one thousand five hundred dollars  
36                  (\$1,500) per article. Each section of a mobile classroom or mobile office  
37                  that is transported separately to the site where it is to be placed is a  
38                  separate article.
- 39                 (1f)   The rate of two and eighty-three-hundredths percent (2.83%) applies to  
40                  the sales price of electricity ~~and piped natural gas~~ described in this  
41                  subdivision and measured by a separate meter or another separate  
42                  device:

- 1 a. Sales of electricity ~~and piped natural gas~~ to farmers to be used by  
2 them for any farm purposes other than preparing food, heating  
3 dwellings, and other household purposes. The quantity of  
4 electricity or gas purchased or used at any one time shall not be a  
5 determinative factor as to whether its sale or use is or is not  
6 subject to the rate of tax provided in this subdivision.
- 7 b. Sales of electricity ~~and piped natural gas~~ to manufacturing  
8 industries and manufacturing plants for use in connection with  
9 the operation of the industries and plants other than sales of  
10 electricity ~~and gas~~ to be used for residential heating purposes. The  
11 quantity of electricity ~~or gas~~ purchased or used at any one time  
12 shall not be a determinative factor as to whether its sale or use is  
13 or is not subject to the rate of tax provided in this subdivision.
- 14 c. Sales of electricity ~~and piped natural gas~~ to commercial laundries  
15 or to pressing and dry-cleaning establishments for use in  
16 machinery used in the direct performance of the laundering or the  
17 pressing and cleaning service.

18 (2) The applicable percentage rate applies to the gross receipts derived from  
19 the lease or rental of tangible personal property by a person who is  
20 engaged in the business of leasing or renting tangible personal property,  
21 or is a retailer and leases or rents property of the type sold by the  
22 retailer. The applicable percentage rate is the rate and the maximum tax,  
23 if any, that applies to a sale of the property that is leased or rented. A  
24 person who leases or rents property shall also collect the tax imposed by  
25 this section on the separate retail sale of the property.

26 (3) Operators of hotels, motels, tourist homes, tourist camps, and similar  
27 type businesses and persons who rent private residences and cottages to  
28 transients are considered retailers under this Article. A tax at the general  
29 rate of tax is levied on the gross receipts derived by these retailers from  
30 the rental of any rooms, lodgings, or accommodations furnished to  
31 transients for a consideration. This tax does not apply to any private  
32 residence or cottage that is rented for less than 15 days in a calendar  
33 year or to any room, lodging, or accommodation supplied to the same  
34 person for a period of 90 or more continuous days.

35 As used in this subdivision, the term 'persons who rent to transients'  
36 means (i) owners of private residences and cottages who rent to  
37 transients and (ii) rental agents, including 'real estate brokers' as defined  
38 in G.S. 93A-2, who rent private residences and cottages to transients on  
39 behalf of the owners. If a rental agent is liable for the tax imposed by  
40 this subdivision, the owner is not liable.

41 (4) Every person engaged in the business of operating a dry cleaning,  
42 pressing, or hat-blocking establishment, a laundry, or any similar  
43 business, engaged in the business of renting clean linen or towels or

1 wearing apparel, or any similar business, or engaged in the business of  
2 soliciting cleaning, pressing, hat blocking, laundering or linen rental  
3 business for any of these businesses, is considered a retailer under this  
4 Article. A tax at the general rate of tax is levied on the gross receipts  
5 derived by these retailers from services rendered in engaging in any of  
6 the occupations or businesses named in this subdivision. The tax  
7 imposed by this subdivision does not apply to receipts derived from  
8 coin or token-operated washing machines, extractors, and dryers. The  
9 tax imposed by this subdivision does not apply to gross receipts derived  
10 from services performed for resale by a retailer that pays the tax on the  
11 total gross receipts derived from the services.

12 (4a) The rate of three percent (3%) applies to the gross receipts derived by a  
13 utility from sales of ~~electricity, piped natural gas, electricity~~ or local  
14 telecommunications service as defined by G.S. 105-120(e), other than  
15 sales of ~~electricity or piped natural gas~~ subject to tax under another  
16 subdivision in this section. ~~Gross receipts from sales of piped natural gas  
17 shall not include natural gas expansion surcharges imposed under G.S. 62-  
18 158.~~ A person who operates a utility is considered a retailer under this  
19 Article.

20 (4b) A person who sells tangible personal property at a flea market, other  
21 than the person's own household personal property, is considered a  
22 retailer under this Article. A tax at the general rate of tax is levied on  
23 the sales price of each article sold by the retailer at the flea market. A  
24 person who leases or rents space to others at a flea market may not lease  
25 or rent this space unless the retailer requesting to rent or lease the space  
26 shows the license or a copy of the license required by this Article or  
27 other evidence of compliance. A person who leases or rents space at a  
28 flea market shall keep records of retailers who have leased or rented  
29 space at the flea market. As used in this subdivision, the term 'flea  
30 market' means a place where space is rented to a person for the purpose  
31 of selling tangible personal property.

32 (4c) The rate of six and one-half percent (6 1/2%) applies to the gross  
33 receipts derived from providing toll telecommunications services or  
34 private telecommunications services as defined by G.S. 105-120(e) that  
35 both originate from and terminate in the State and are not subject to the  
36 privilege tax under G.S. 105-120. Any business entity that provides  
37 these services is considered a retailer under this Article. This  
38 subdivision does not apply to telephone membership corporations as  
39 described in Chapter 117 of the General Statutes.

40 (5) **(Effective until July 1, 1998)** The rate of three percent (3%) applies to  
41 the sales price of food that is not otherwise exempt pursuant to G.S.  
42 105-164.13 but would be exempt pursuant to G.S. 105-164.13 if it were

1 purchased with coupons issued under the Food Stamp Program, 7  
2 U.S.C. § 51.

- 3 (5) **(Effective July 1, 1998)** The rate of two percent (2%) applies to the  
4 sales price of food that is not otherwise exempt pursuant to G.S. 105-  
5 164.13 but would be exempt pursuant to G.S. 105-164.13 if it were  
6 purchased with coupons issued under the Food Stamp Program, 7  
7 U.S.C. § 51."

8 Section 6. G.S. 105-164.13 is amended by adding a new subdivision to read:

9 "(44) Piped natural gas. – This item is exempt because it is taxed under  
10 Article 5D of this Chapter."

11 Section 7. G.S. 105-164.20 reads as rewritten:

12 **"§ 105-164.20. Cash or accrual basis of reporting.**

13 Any retailer, except a utility, ~~taxable under this Article having both cash and credit sales~~  
14 may report such sales on either the cash or accrual basis of accounting upon making  
15 application to the Secretary for permission to use ~~such the~~ basis of reporting under such  
16 rules and regulations as shall be promulgated from time to time by the Secretary. ~~Such~~  
17 ~~permission shall continue in force and effect unless revoked by the Secretary but he may grant~~  
18 ~~written permission to any such taxpayer upon application therefor to change from one basis to~~  
19 ~~another under such rules and regulations. A utility shall selected. Permission granted by the~~  
20 ~~Secretary to report on a selected basis continues in effect until revoked by the Secretary~~  
21 ~~or the taxpayer receives permission from the Secretary to change the basis selected. A~~  
22 ~~utility must report its sales on an accrual basis. A sale by a utility of electricity, piped~~  
23 ~~natural gas, electricity or intrastate telephone service is considered to accrue when the~~  
24 utility bills its customer for the sale."

25 Section 8. G.S. 105-122(d) reads as rewritten:

26 "(d) After determining the proportion of its total capital stock, surplus and  
27 undivided profits as set out in subsection (c) of this section, which amount so determined  
28 shall in no case be less than fifty-five percent (55%) of the appraised value as determined  
29 for ad valorem taxation of all the real and tangible personal property in this State of each  
30 such corporation plus the total appraised value of intangible property returned for  
31 taxation of intangible personal property as herein specified nor less than its total actual  
32 investment in tangible property in this State, every corporation taxed under this section  
33 shall annually pay to the Secretary of Revenue, at the time the report and statement are  
34 due, a franchise or privilege tax, which is hereby levied at the rate of one dollar and fifty  
35 cents (\$1.50) per one thousand dollars (\$1,000) of the total amount of capital stock,  
36 surplus and undivided profits as herein provided. The tax imposed in this section shall in  
37 no case be less than thirty-five dollars (\$35.00) and shall be for the privilege of carrying  
38 on, doing business, and/or the continuance of articles of incorporation or domestication of  
39 each such corporation in this State. Appraised value of tangible property including real  
40 estate shall be the ad valorem valuation for the calendar year next preceding the due date  
41 of the franchise tax return. Appraised value of intangible property shall be the total gross  
42 valuation required to be reported for intangible tax purposes on April 15 coincident with  
43 or next preceding the due date of the franchise tax return. The term "total actual

1 investment in tangible property"as used in this section shall be construed to mean the  
2 total original purchase price or consideration to the reporting taxpayer of its tangible  
3 properties, including real estate, in this State plus additions and improvements thereto  
4 less reserve for depreciation as permitted for income tax purposes, and also less any  
5 indebtedness incurred and existing by virtue of the purchase of any real estate and any  
6 permanent improvements made thereon. In computing "total actual investment in tangible  
7 personal property"there shall also be deducted reserves for the entire cost of any air-  
8 cleaning device or sewage or waste treatment plant, including waste lagoons, and  
9 pollution abatement equipment purchased or constructed and installed which reduces the  
10 amount of air or water pollution resulting from the emission of air contaminants or the  
11 discharge of sewage and industrial wastes or other polluting materials or substances into  
12 the outdoor atmosphere or into streams, lakes, or rivers, upon condition that the  
13 corporation claiming such deduction shall furnish to the Secretary a certificate from the  
14 Department of Environment and Natural Resources or from a local air pollution control  
15 program for air-cleaning devices located in an area where the Environmental  
16 Management Commission has certified a local air pollution control program pursuant to  
17 G.S. 143-215.112 certifying that said Department or local air pollution control program  
18 has found as a fact that the air-cleaning device, waste treatment plant or pollution  
19 abatement equipment purchased or constructed and installed as above described has  
20 actually been constructed and installed and that such device, plant or equipment complies  
21 with the requirements of the Environmental Management Commission or local air  
22 pollution control program with respect to such devices, plants or equipment, that such  
23 device, plant or equipment is being effectively operated in accordance with the terms and  
24 conditions set forth in the permit, certificate of approval, or other document of approval  
25 issued by the Environmental Management Commission or local air pollution control  
26 program and that the primary purpose thereof is to reduce air or water pollution resulting  
27 from the emission of air contaminants or the discharge of sewage and waste and not  
28 merely incidental to other purposes and functions. The cost of constructing facilities of  
29 any private or public utility built for the purpose of providing sewer service to residential  
30 and outlying areas shall be treated as deductible for the purposes of this section; the  
31 deductible liability allowed by this section shall apply only with respect to such pollution  
32 abatement plants or equipment constructed or installed on or after January 1, 1955.

33 ~~In determining the total tax payable by any corporation under this section, there shall~~  
34 ~~be allowed as a credit on such tax the amount of the credit authorized by Division V of~~  
35 ~~Article 4 of this Chapter."~~

36 Section 9. G.S. 105-122 is amended by adding a new subsection to read:

37 "(d1) Credits. – A corporation is allowed the following credits against the tax  
38 imposed by this section for a taxable year:

- 39 (1) The credit claimed for the taxable year under Division V of Article 4 of  
40 this Chapter.  
41 (2) One-half of the amount of tax payable during the taxable year under  
42 Article 5D of this Chapter."

43 Section 10. G.S. 105-259(b)(5b) reads as rewritten:

1           "(5b) To furnish to the finance officials of a city a list of the utility taxable  
2           gross receipts ~~that were derived from sales within the city and used to~~  
3           ~~determine the city's distribution~~ and piped natural gas tax revenues  
4           attributable to the city under G.S. 105-116.1 or and G.S. 105-187.38 or  
5           under former distribution under G.S. 105-116 and G.S. 105-120."

6           Section 11. G.S. 105-259(b) is amended by adding a new subdivision to read:

7           "(21) To exchange information concerning the tax on piped natural gas  
8           imposed by Article 5D of this Chapter with the North Carolina Utilities  
9           Commission or the Public Staff of that Commission."

10          Section 12. G.S. 160A-211 is amended by adding a new subsection to read:

11          "(c) Piped Gas Restriction. – A city may not levy a privilege license tax on a person  
12          who is engaged in the business of supplying piped natural gas and is subject to tax under  
13          Article 5D of Chapter 105 of the General Statutes."

14          Section 13. Notwithstanding G.S. 105-164.4 and G.S. 105-164.6, sales and use  
15          tax levied under Article 5 of Chapter 105 of the General Statutes does not apply to piped  
16          natural gas sold by a city in this State that operated a piped natural gas distribution  
17          system as of July 1, 1998. These cities are Bessemer City, Greenville, Kings Mountain,  
18          Lexington, Monroe, Rocky Mount, Shelby, and Wilson.

19          Section 14. Chapter 62 of the General Statutes is amended by adding a new  
20          section to read:

21          "**§ 62-110.2A. Piped gas service area outside of municipalities.**

22          (a) Service Area. – A municipality that operates a piped natural gas distribution  
23          system has the right to serve all premises being served by it on June 30, 1998, and all  
24          premises initially requiring piped natural gas service after June 30, 1998, that are located  
25          wholly within the county where the municipality is located. A municipality may not  
26          serve any premises that are outside the service area authorized by this subsection.

27          (b) Definition. – As used in this section, the term "premises" has the same meaning  
28          as in G.S. 62-110.2. When applying the definition of premises to this section, "electric  
29          service" is considered as piped natural gas service."

30          Section 15. The provisions of this act are severable. If any provision of this  
31          act is held invalid by a court of competent jurisdiction, the invalidity does not affect other  
32          provisions of the act that can be given effect without the invalid provision.

33          Section 16. Sections 1 through 12 of this act become effective January 1,  
34          1999. Section 13 of this act becomes effective July 1, 1998. The remainder of this act is  
35          effective when it becomes law.