GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 1991

CHAPTER 1007
HOUSE BILL 1321

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

The General Assembly of North Carolina enacts:

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

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

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

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

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

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

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

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

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

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

During 1991 and 1992, twelve percent (12%).
During 1993, fifteen percent (15%).
During 1994, twenty percent (20%).
During 1995, twenty-five percent (25%).
During 1996, thirty percent (30%).
During 1997, thirty-five percent (35%).

After 1997, forty percent (40%).

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

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

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

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

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

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

Sec. 2. G.S. 105-116(e) reads as rewritten:

"(e) Local Tax. – ~~A municipality that imposed a license, franchise, or privilege tax on or before January 1, 1947, on a company taxed under this section may continue to impose the tax in an amount that does not exceed the amount imposed as of that date. Other municipalities and counties may not impose a license, franchise, or privilege tax on a company taxed under this section.~~ So long as there is a distribution to municipalities of the amount herein provided from the tax imposed by this section, no municipality shall impose or collect any greater franchise, privilege or license taxes, in the aggregate, on the businesses taxed under this section, than was imposed and collected on or before January 1, 1947. If any municipality shall have collected any privilege, license or franchise tax between January 1, 1947, and April 1, 1949, in excess of the tax collected by it prior to January 1, 1947, then upon distribution of the taxes

imposed by this section to municipalities, the amount distributable to any municipality shall be credited with such excess payment."

Sec. 3. G.S. 105-134.6 reads as rewritten:

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

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

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

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

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

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

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

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

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

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

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

d. In the case of a married couple filing a joint return where both spouses received retirement benefits during the taxable year, the maximum dollar amounts provided in this subdivision for various types of retirement benefits apply separately to each spouse's benefits.

(7) The amount of inheritance tax attributable to an item of income in respect of a decedent required to be included in gross income under the Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and

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

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

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

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

(1) Interest upon the obligations of states, other than this State, and their political subdivisions.

(2) Any amount allowed as a deduction from gross income under the Code that is taxed under the Code by a separate tax other than the tax imposed in section 1 of the Code.

(3) Any amount deducted from gross income under section 164 of the Code as ~~State,~~ state, local, or foreign income tax to the extent that the taxpayer's total itemized deductions deducted under the Code for the taxable year exceed the standard deduction allowable to the taxpayer under the Code reduced by the amount by which the taxpayer's allowable standard deduction has been increased under section 63(c)(4) of the Code.

(4) The amount by which the taxpayer's standard deduction has been increased for inflation under section 63(c)(4) of the Code and the amount by which the taxpayer's personal exemptions have been

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

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

Sec. 4. G.S. 105-164.11 reads as rewritten:

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

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

Sec. 5. G.S. 105-188(g) reads as rewritten:

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

Sec. 6. G.S. 105-203 reads as rewritten:

"**§ 105-203. Shares of stock.**

All shares of stock (including shares and units of ownership of mutual funds, investment trusts, and investment funds) owned by residents of this State or having a business, commercial, or taxable situs in this State on December 31 of each year, with the exception herein provided, shall be subject to an annual tax, which is hereby levied, of twenty-five cents (25¢) on every one hundred dollars ($100.00) of the total fair market value of the stock on December 31 of each year less the proportion of the value that is equal to:

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

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

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

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

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

Sec. 7. G.S. 105-213(a) reads as rewritten:

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

(1) Refunds made during the fiscal year of taxes levied under this Article.

(2) The Department of Revenue to collect and administer the taxes levied under this Article.

(3) The Department of Revenue in performing the duties imposed by Article 15 of this Chapter.
(4) The Property Tax Commission.
(5) The Institute of Government in operating a training program in property tax appraisal and assessment.
(6) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.

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

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

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

The chairman of each board of county commissioners and the mayor of each municipality shall report to the Secretary of Revenue information requested by the Secretary to enable the Secretary to allocate the amount appropriated by this section. If a county or municipality fails to make a requested report within the time allowed, the Secretary may disregard the county or municipality in allocating the amount appropriated by this section. The amount distributed to each county and municipality shall be used by the county or municipality in proportion to property tax levies made by

it for the various funds and activities of the county or municipality, unless the county or municipality has pledged the amount to be distributed to it under this section in payment of a loan agreement with the North Carolina Solid Waste Management Capital Projects Financing Agency. A county or municipality that has pledged amounts distributed under this section in payment of a loan agreement with the Agency may apply the amount the loan agreement requires."

Sec. 8. G.S. 105-228.5A reads as rewritten:

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

(a) The following definitions apply in this section:

(1) Assessment. – An assessment as described in G.S. 58-48-35 or an assessment as described in ~~G.S. 58-62-40.~~ G.S. 58-62-41.

(2) Association. – The North Carolina Insurance Guaranty Association created under G.S. 58-48-25 or the North Carolina Life and ~~Accident and~~ Health Insurance Guaranty Association created under ~~G.S. 58-62-25.~~ G.S. 58-62-26.

(3) Commissioner. – Commissioner of Insurance.

(4) Member insurer. – A member insurer as defined in G.S. 58-48-20 or a member insurer as defined in ~~G.S. 58-62-20.~~ G.S. 58-62-16.

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

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

Sec. 9. G.S. 105-228.24 reads as rewritten:

"**§ 105-228.24. Tax limitations.**

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

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

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

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

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

Sec. 10. G.S. 105-236(11) reads as rewritten:

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

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

Sec. 11. G.S. 105-237.1(a) reads as rewritten:

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

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

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

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

(3) Collection of a greater amount than that offered in compromise ~~settlement~~ is improbable, and the funds or a substantial portion of the funds offered in the settlement~~settlement, or a substantial portion thereof,~~ come from sources from which the Secretary could not otherwise ~~collect; or~~ collect.

(4) A federal tax assessment arising out of the same facts has been compromised with the federal government on the same or a similar

basis as that proposed to the State and the Secretary could probably not collect an amount equal to or in excess of that offered in compromise.

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

Sec. 12. G.S. 105-242(a)(1) reads as rewritten:

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

Sec. 13. G.S. 105-242(b) reads as rewritten:

"(b) Bank deposits, rents, salaries, wages, and all other choses in action or property incapable of manual levy or delivery, including property held in the Escheat Fund, hereinafter called the intangible, belonging, owing, or to become due to any taxpayer subject to any of the provisions of this Subchapter, or which has been transferred by such taxpayer under circumstances which would permit it to be levied upon if it were tangible, shall be subject to attachment or garnishment as herein provided, and the person owing said intangible, matured or unmatured, or having same in his possession or control, hereinafter called the garnishee, shall become liable for all sums due by the taxpayer under this Subchapter to the extent of the amount of the intangible belonging, owing, or to become due to the taxpayer subject to the setoff of any matured or unmatured indebtedness of the taxpayer to the garnishee; provided, however, the garnishee shall not become liable for any sums represented by or held pursuant to any negotiable instrument issued and delivered by the garnishee to the

taxpayer and negotiated by the taxpayer to a bona fide holder in due course, and whenever any sums due by the taxpayer and subject to garnishment are so held or represented, the garnishee shall hold such sums for payment to the Secretary of Revenue upon the garnishee's receipt of such negotiable instrument, unless such instrument is presented to the garnishee for payment by a bona fide holder in due course in which event such sums may be paid in accordance with such instrument to such holder in due course. To effect such attachment or garnishment the Secretary of Revenue shall serve or cause to be served upon the taxpayer and the garnishee a notice as hereinafter provided, which notice may be served by any deputy or employee of the Secretary of Revenue or by any officer having authority to serve summonses or may be served in any manner provided in Rule 4 of the North Carolina Rules of Civil Procedure. The notice shall:

(1) Show the name of the taxpayer, and if known his Social Security number or federal tax identification number and his address;

(2) Show the nature and amount of the tax, and the interest and penalties thereon, and the year or years for which the same were levied or assessed, and

(3) Be accompanied by a copy of this subsection, and thereupon the procedure shall be as follows:

If the garnishee has no defense to offer or no setoff against the taxpayer, he shall within 10 days after service of said notice, answer the same by sending to the Secretary of Revenue by registered or certified mail a statement to that effect, and if the amount due or belonging to the taxpayer is then due or subject to his demand, it shall be remitted to the Secretary with said statement, but if said amount is to mature in the future, the statement shall set forth that fact and the same shall be paid to the Secretary upon maturity, and any payment by the garnishee hereunder shall be a complete extinguishment of any liability therefor on his part to the taxpayer. If the garnishee has any defense or setoff, he shall state the same in writing under oath, and, within 10 days after service of said notice, shall send two copies of said statement to the Secretary by registered or certified mail; if the Secretary admits such defense or setoff, he shall so advise the garnishee in writing within 10 days after receipt of such statement and the attachment or garnishment shall thereupon be discharged to the amount required by such defense or setoff, and any amount attached or garnished hereunder which is not affected by such defense or setoff shall be remitted to the Secretary as above provided in cases where the garnishee has no defense or setoff, and with like effect. If the Secretary shall not admit the defense or setoff, he shall set forth in writing his objections thereto and shall send a copy thereof to the garnishee within 10 days after receipt of the garnishee's statement, or within such further time as may be agreed on by the garnishee, and at the same time he shall file a copy of said notice, a copy of the garnishee's statement, and a copy of his objections thereto in the superior court of the county where the garnishee resides or does business where the issues made shall be tried as in civil actions.

If judgment is entered in favor of the Secretary of Revenue by default or after hearing, the garnishee shall become liable for the taxes, interest and penalties due by the

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

This subsection shall be applicable with respect to the wages, salary or other compensation of officials and employees of this State and its agencies and instrumentalities, officials and employees of political subdivisions of this State and their agencies and instrumentalities, and also officials and employees of the United States and its agencies and instrumentalities insofar as the same is permitted by the Constitution and laws of the United States. In the case of State or federal employees, the notice shall be served upon such employee and upon the head or chief fiscal officer of the department, agency, instrumentality or institution by which the taxpayer is employed. In case the taxpayer is an employee of a political subdivision of the State, the

notice shall be served upon such employee and upon the chief fiscal officer, or any officer or person charged with making up the payrolls, or disbursing funds, of the political subdivision by which the taxpayer is employed. Such head or chief officer or fiscal officer or other person as specified above shall thereafter, subject to the limitations herein provided, make deductions from the salary or wages due or to become due the taxpayer and remit same to the Secretary until the tax, penalty, interest and costs allowed by law are fully paid. Such deductions and remittances shall, pro tanto, constitute a satisfaction of the salary or wages due the taxpayer."

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

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

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

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

Sec. 17. G.S. 105-269.3 reads as rewritten:

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

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

Sec. 18. G.S. 105-277A(c2) reads as rewritten:

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

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

Sec. 19. G.S. 105-277A(d) reads as rewritten:

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

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

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

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

(4) 'Special district's inventory levy' means the special district's average rate multiplied by eighty percent (80%) of the value of the inventories reported to the Secretary under subsection (a) of this section in behalf of the ~~district;~~ district.

(5) 'Taxing unit' means a unit that levied a property tax or for which another unit collected a property tax for the fiscal year beginning July

1 of the year preceding the date a distribution is made under this section."

Sec. 20. G.S. 105-288(c) reads as rewritten:

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

Sec. 21. G.S. 105-295 reads as rewritten:

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

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

Sec. 22. G.S. 105-322(c) reads as rewritten:

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

Sec. 23. G.S. 105-349(g) reads as rewritten:

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

Sec. 24. The first line of Section 1 of Chapter 267 of the 1991 Session Laws is amended by deleting the phrase "18B-1114.1(a)"and substituting the phrase "18B-1114.1".

Sec. 25. Section 15 of Chapter 441 of the 1991 Session Laws is repealed.

Sec. 26. Section 6 of Chapter 652 of the 1991 Session Laws reads as rewritten:

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

Sec. 27. G.S. 20-7(a)(3)b. reads as rewritten:

"b. When operated by a volunteer member of a fire department, a rescue ~~squad~~ squad, or ~~Emergency Medical Services~~ an

emergency medical service (EMS) in the performance of duty, a Class A or Class B fire-fighting, rescue, or EMS motor ~~vehicle,~~ vehicle or a combination of these vehicles."

Sec. 28. G.S. 20-14 reads as rewritten:

"**§ 20-14. Duplicate licenses.**

A ~~licensee~~ person may obtain a duplicate of a license issued by the Division by paying a fee of ten dollars ($10.00) and giving the Division satisfactory proof that any of the following has occurred:

(1) The person's license has been lost or destroyed.

(2) It is necessary to change the name or address on the license.

(3) Because of ~~the licensee's~~ age, the ~~licensee~~ person is entitled to a license with a different color photographic ~~background; or~~ background.

(4) ~~He has become eligible for reinstatement of his North Carolina driving privilege following a period of suspension or revocation and the last license issued has not yet expired.~~ The Division revoked the person's license, the revocation period has expired, and the period for which the license was issued has not expired."

Sec. 29. G.S. 20-30(8) reads as rewritten:

"(8) To possess more than one commercial drivers license or to possess a commercial drivers license and a regular drivers license. Any commercial drivers license other than the ~~[one]~~ one most recently issued is subject to immediate seizure by any law enforcement officer or judicial official. Any regular drivers license possessed at the same time as a commercial drivers license is subject to immediate seizure by any law enforcement officer or judicial official."

Sec. 30. G.S. 20-37.6 reads as rewritten:

"**§ 20-37.6. ~~Handicapped;~~ Parking privileges for handicapped drivers and ~~passengers; parking privileges.~~ passengers.**

(a) General Parking. – Any vehicle that is driven by or is transporting a person who is handicapped ~~as defined by G.S. 20-37.5 displaying~~ and that displays a distinguishing license plate, a removable windshield placard, or a temporary ~~removal~~ removable windshield placard may be parked for unlimited periods in parking zones restricted as to the length of time parking is permitted. This provision has no application to those zones or during times in which the stopping, parking, or standing of all vehicles is prohibited or which are reserved for special types of vehicles. Any qualifying vehicle may park in spaces designated ~~by aboveground markings~~ as restricted to vehicles ~~distinguished as being~~ driven by or ~~as~~ transporting the handicapped.

(b) Handicapped Car Owners; Distinguishing License Plates. – If the handicapped person is a registered owner of a vehicle, the owner may apply for and display a distinguishing license plate. This license plate shall be issued for the normal fee applicable to standard license plates. Any vehicle owner who qualifies for a distinguishing license plate may also receive one removable windshield placard.

(c) Handicapped Drivers and Passengers; Distinguishing Placards. – A handicapped person may apply for the issuance of a removable windshield placard or a temporary removable windshield placard. Upon request, one additional placard may be issued to applicants who do not have a distinguishing license plate. Any organization which, as determined and certified by the State Vocational Rehabilitation Agency, regularly transports handicapped persons may also apply. These organizations may receive one removable windshield placard for each transporting vehicle. When the removable windshield or temporary removable windshield placard is properly displayed, all parking rights and privileges extended to vehicles displaying a distinguishing license plate issued pursuant to subsection (b) shall apply. The removable windshield placard or the temporary removable windshield placard shall be displayed so that it may be viewed from the front and rear of the vehicle by hanging it from the front windshield rearview mirror of a vehicle using a parking space allowed for handicapped persons. When there is no inside rearview mirror, or when the placard cannot reasonably be hung from the rearview mirror by the handicapped person, the placard shall be displayed on the driver's side of the dashboard. A removable windshield placard placed on a motorized wheelchair or similar vehicle shall be displayed in a clearly visible location. The Division ~~of Motor Vehicles~~ shall establish procedures for the issuance of the placards and may charge a fee sufficient to pay the actual cost of issuance, but in no event less than five dollars ($5.00) per placard.

(c1) ~~Application for Placard;~~ Application and Renewal; Physician's Certification. – The initial application for a distinguishing license plate, removable windshield placard, or temporary removable windshield placard shall be accompanied by a certification of a licensed physician, ophthalmologist, ~~optometrist,~~ or optometrist or of the Division of Services for the Blind that the applicant ~~meets the definition of a person being handicapped in G.S. 20-37.5.~~is handicapped. The application for a temporary removable windshield placard shall contain additional certification to include the period of time the certifying authority determines the applicant will have the disability. Distinguishing license plates shall be renewed annually, but subsequent applications shall not require a medical certification that the applicant ~~meets the definition of being handicapped in G.S. 20-37.5.~~is handicapped. Removable windshield placards shall be renewed every five years, and the renewal shall require a medical recertification that the person is ~~handicapped as defined in G.S. 20-37.5.~~handicapped. Temporary removable windshield placards shall expire no later than six months after issuance.

(c2) Existing Placards; Expiration; Exchange for New Placards. – All existing placards shall expire on January 1, 1992. No person shall be convicted of parking in violation of this Article by reason of an expired placard if the defendant produces in court, at the time of trial on the illegal parking charge, an expired placard and a renewed placard issued within 30 days of the expiration date of the expired placard and which would have been a defense to the charge had it been issued prior to the time of the alleged offense. Existing placards issued on or after July 1, 1989, may be exchanged without charge for the new placards.

(d) Designation of Parking ~~Places.~~ Spaces.– Designation of parking spaces for handicapped persons on streets and public vehicular areas shall comply with

G.S. 136-30. A sign designating a parking space for handicapped persons shall state the maximum penalty for parking in the space in violation of the law.

(d1) Repealed by Session Laws 1991, c. 530, s. 4.

(e) Enforcement of Handicapped Parking Privileges. – It shall be unlawful:

(1) To park or leave standing any vehicle in a space designated with a sign pursuant to subsection (d) of this section for handicapped persons when the vehicle does not display the distinguishing license plate, removable windshield ~~placard~~ placard, or temporary removable windshield placard ~~or identification card~~ as provided in this ~~section~~ section, or a disabled veteran registration plate issued under G.S. 20-79.4;

(2) For any person not qualifying for the rights and privileges extended to handicapped persons under this section to exercise or attempt to exercise such rights or privileges by the unauthorized use of a distinguishing license plate, removable windshield placard, or temporary removable windshield placard issued pursuant to the provisions of this section;

(3) To park or leave standing any vehicle so as to obstruct a curb ramp or curb cut for handicapped persons as provided for by the North Carolina Building Code or as designated in G.S. 136-44.14;

(4) For those responsible for designating parking spaces for the handicapped to erect or otherwise use signs not conforming to G.S. 20-37.6(d) for this purpose.

This section is enforceable in all public vehicular ~~areas specified in G.S. 20-4.01(32).~~ areas.

(f) Penalties for Violation. –

(1) A violation of G.S. 20-37.6(e)(1), (2) or (3) is an infraction which carries a penalty of at least fifty dollars ($50.00) but not more than one hundred dollars ($100.00) and whenever evidence shall be presented in any court of the fact that any automobile, truck, or other vehicle was found to be parked in a properly designated handicapped parking space in violation of the provisions of this section, it shall be prima facie evidence in any court in the State of North Carolina that the vehicle was parked and left in the space by the person, firm, or corporation in whose name the vehicle is registered and licensed according to the records of the ~~Division of Motor Vehicles.~~Division. No evidence tendered or presented under this authorization shall be admissible or competent in any respect in any court or tribunal except in cases concerned solely with a violation of this section.

(2) A violation of G.S. 20-37.6(e)(4) is an infraction which carries a penalty of at least fifty dollars ($50.00) but not more than one hundred dollars ($100.00) and whenever evidence shall be presented in any court of the fact that ~~any such~~ a nonconforming sign ~~or markings are~~ is being used it shall be prima facie evidence in any court in the State of

North Carolina that the person, firm, or corporation with ownership of the property where ~~said~~ the nonconforming ~~signs or markings are~~ sign is located is responsible for violation of this section. Building inspectors and others responsible for North Carolina State Building Code violations specified in G.S. 143-138(h) where such signs are required by the Handicapped Section of the North Carolina State Building Code, may cause a citation to be issued for this violation and may also initiate any appropriate action or proceeding to correct such violation.

(3) A law-enforcement officer, including a security officer who has authority to enforce laws on the property of his employer as specified in Chapter 74A, may cause a vehicle parked in violation of this section to be towed; and such officer shall be a legal possessor as provided in G.S. 20-161(d)(2). This law-enforcement officer, or security officer, shall not be held to answer in any civil or criminal action to any owner, lienholder or other person legally entitled to the possession of any motor vehicle removed from such space pursuant to this section, except where such motor vehicle is willfully, maliciously, or negligently damaged in the removal from aforesaid space to place of storage.

(4) Notwithstanding any other provision of the General Statutes, the provisions of this section relative to handicapped parking shall be enforced by State, county, city and other municipal authorities in their respective jurisdictions whether on public or private property in the same manner as is used to enforce other parking laws and ordinances by said agencies."

Sec. 31. G.S. 20-37.6A reads as rewritten:

"**§ 20-37.6A. ~~Vehicles designated~~ Parking privileges for out-of-state ~~handicapped; parking privileges.~~ handicapped drivers and passengers.**

Any vehicle displaying an out-of-State handicapped license plate, ~~placard~~ placard, or other evidence of handicap ~~or visual impairment~~ issued by the appropriate authority of the appropriate jurisdiction may park in any space reserved for the handicapped pursuant to G.S. 20-37.6."

Sec. 32. G.S. 20-63(b) reads as rewritten:

"(b) Every license plate shall have displayed upon it the registration number assigned to the vehicle for which it is issued, ~~also~~ the name of the State of North Carolina, which may be abbreviated, the year number for which it is issued or the date of expiration, and, if the plate is issued for a commercial vehicle, as defined in G.S. 20-4.2(1), the word 'commercial,' designating 'commercial vehicle.' ~~Provided that plates~~ The Division may not issue a plate bearing the word 'commercial' ~~shall not be issued~~ for ~~trailers, for vehicles~~ a trailer, a vehicle licensed for less than 5,000 pounds, ~~and for property carrying vehicles~~ a property-hauling vehicle, or ~~for any~~ a commercial vehicle bearing a personalized ~~plate issued pursuant to G.S. 20-81.3. Subject to the provisions hereof, every~~ plate.

A registration plate issued by the Division for a private passenger vehicle ~~and all~~ or for a private hauler ~~vehicles~~ vehicle licensed for 4,000 pounds ~~gross weight registration plate manufactured for use after January 1, 1982,~~ shall be a 'First in Flight' plate. A 'First in Flight' plate shall have the words 'First in Flight' printed at the top of the plate above all other letters and numerals. The background of the plate shall depict the Wright Brothers biplane flying over Kitty Hawk Beach, with the plane flying slightly upward and to the right. ~~The Department shall deplete the license plates in stock, on order, or for which a contract has been signed at the time of the ratification of this bill. Until all of the license plates previously referred to have been depleted, all plates issued to replace faded, worn-out or damaged plates shall be regular plates. Any person desiring to trade in a regular plate and thereby secure a First in Flight plate may do so by paying the fee provided in G.S. 20-85(5). As soon as feasible, but not later than July 1, 1983, all newly issued plates shall be issued as First in Flight plates; and as soon as feasible, all special issue, official and personalized plates shall be issued as First in Flight plates. Beginning July 1, 1983, the Department shall, as the same comes up for replacement, begin systematically replacing all regular license plates with First in Flight license plates beginning with the oldest series of existing plates and continuing thereafter on a staggered basis.~~"

Sec. 33. G.S. 20-81.12(d) reads as rewritten:

"(d) Ten dollars ($10.00) of the additional fee imposed by subsection (b) of this section shall be credited to the ~~Personalized~~ Special Registration Plate Fund established under G.S. ~~20-81.3 [20-79.7].~~20-79.7. The remaining revenue derived from the additional fee imposed by subsection (b) of this section shall be credited to the Collegiate Plate Fund, a separate fund established in the State Treasurer's office. The revenue in the Collegiate Plate Fund shall be transferred quarterly to the Board of Governors of The University of North Carolina for public colleges and universities and to the respective board of trustees for private colleges and universities in proportion to the number of collegiate plates sold representing that institution for use for academic enhancement."

Sec. 34. G.S. 20-127(h) reads as rewritten:

"(h) Subsections (d) through (g) of this section shall apply only to darkened, ~~smoked~~ smoked, or tinted film installed on motor vehicle windows after factory delivery and after ~~the effective date of this act~~ July 1, 1988,and shall not apply to vehicles that are registered in another ~~state and~~ state, are not required to be registered in this State, and were in compliance with the standards required in ~~that state at [the] time.~~ the state of registration at the time of registration."

Sec. 35. G.S. 65-64(c) is repealed.

Sec. 36. G.S. 75-81(3) reads as rewritten:

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

Sec. 37. G.S. 120-123(27) reads as rewritten:

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

Sec. 38. G.S. 130A-62 reads as rewritten:

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

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

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

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

(d) Sanitary districts electing to collect their own taxes shall be deemed cities for the purposes of the Machinery ~~Act.~~Act, Subchapter II of Chapter 105 of the General Statutes. ~~If a district is located in more than one county, the district board may adopt the assessments placed upon property located in the district by the counties in which the district is located if, in the opinion of the board, the same appraisal and assessment standards will apply uniformly throughout the district. If the board determines that adoption of the assessments fixed by the counties will not result in uniform appraisals and assessments throughout the district, the board may, by horizontal adjustments, equalize the appraisal values fixed by the counties and in accordance with the procedure prescribed in the Machinery Act, select and adopt an assessment ratio to be applied to the appraised values of property subject to district taxation as equalized by the board. Taxes levied by the district shall be levied uniformly on the assessments.~~"

Sec. 39. G.S. 143B-472.3, Articles 11 and 12, read as rewritten:

"Article 11. Assessments shall be made as provided in ~~G.S. 143-472.18 [G.S. 143B-472.18].~~ G.S. 143B-472.18.Whenever possible, assessments will be made at definitely stated intervals so as to reduce the cost of collection and to prevent lapse.

"Article 12. In the event the proceeds of the annual assessments imposed on the entire membership for one year, as provided in ~~G.S. 143-472.18 [G.S. 143B-472.18],~~ G.S. 143B-472.18,do not prove sufficient at any time to yield the benefit provided for in these bylaws, then the secretary-treasurer shall notify the North Carolina Burial Association Administrator who shall be authorized, unless the membership is increased to that point where such assessments are sufficient, to cause liquidation of said association, and may transfer all members in good standing to a like organization or association."

Sec. 40. G.S. 159-30(b) reads as rewritten:

"(b) Moneys may be deposited at interest in any bank, savings and loan association, or trust company in this State in the form of certificates of deposit or such other forms of time deposit as the Commission may approve. Investment deposits, including investment deposits of ~~the~~ a mutual fund for local government investment ~~created by G.S. 159-30(c)(6a),~~ established under subdivision (c)(8) of this section, shall be secured as provided in G.S. 159-31(b)."

Sec. 41. G.S. 159-55(a)(5) reads as rewritten:

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

Sec. 42. G.S. 159G-8(a) reads as rewritten:

"(a) Application. – All applications for revolving loans and grants for water supply systems shall be filed with the Division of Environmental Health and all applications for revolving loans and grants for wastewater treatment works or wastewater collection systems shall be filed with the Environmental Management Commission. Any application may be filed in as many categories as it is eligible for consideration under this Chapter. Applications for revolving construction loans or grants for wastewater treatment works and wastewater collection systems, except applications for emergency wastewater loans, shall first be submitted for a loan or grant from the Water Pollution Control Revolving Fund established by G.S. 159G-5(c). If the application is denied, the application shall then be considered for a revolving loan or a grant from the General Wastewater Revolving Loan and Grant account established under G.S. ~~159-6(b)(1) [159G-6(b)(1)].~~ 159G-6(b)(1).

The Department of Environment, Health, and Natural Resources, the Commission for Health Services, and the Environmental Management Commission may develop jointly and adopt a standard form of application under this Chapter. Any application for construction grants under the Federal Water Pollution Control Act may be considered as an application for revolving construction loans or grants under G.S. 159G-5(c) and G.S. 159G-6(b)(1). The information required to be set forth in the application shall be sufficient to permit the respective agencies to determine the eligibility of the applicant and to establish the priority of the application, as set forth in this Chapter.

Any applicant shall furnish information in addition or supplemental to the information contained in its application upon request by the receiving agency."

Sec. 43. G.S. 159-123(c) reads as rewritten:

"(c) When the issuing unit wishes to have a private sale of bonds, the governing board of the issuing unit shall adopt and file with the Commission a resolution requesting that the bonds be sold at private sale without advertisement to any purchaser or purchasers thereof, at such prices as the Commission determines to be in the best interest of the issuing unit, subject to the approval of the governing board of the issuing unit or one or more persons designated by resolution of the governing board of the issuing unit to approve such prices. Upon receipt of a resolution requesting a private sale of bonds, the Commission may offer them to any purchaser or purchasers without advertisement, and may sell them at any price the Commission deems in the best interest of the issuing unit, subject to the approval of the governing board of the issuing unit or the person or persons designated by resolution of the governing board of the issuing unit to approve such prices. For purposes of this subsection, any resolution of the governing board of the issuing unit which designates a person or persons to approve any price or prices shall also establish a minimum purchase price and a maximum interest rate or maximum interest cost and such other provisions relating to approval as it may determine. Notwithstanding any provisions of this Chapter ~~159~~ to the contrary, ~~the~~ general obligation bonds issued pursuant to Article 4 of this Chapter may be sold at private sale at not less than ninety-eight percent (98%) of the face value of the bonds plus one hundred percent (100%) of accrued interest."

Sec. 44. G.S. 105-164.13(12) reads as rewritten:

"(12) Therapeutic, prosthetic, or artificial devices, such as pulmonary respirators or medical beds, that are designed for individual personal use to correct or alleviate physical illness, disease, or incapacity and that are sold on the written prescription of a physician, dentist, or other professional person licensed to prescribe, and crutches, artificial limbs, artificial eyes, hearing aids, false teeth, eyeglasses ground on prescription of a physician or an optometrist, and orthopedic appliances designed to be worn by the purchaser or user. ~~This subdivision does not apply to a motor vehicle.~~"

Sec. 45. G.S. 153A-277(a1) reads as rewritten:

"(a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for structural and natural stormwater and drainage systems under this section, the board of commissioners shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

~~Fees~~ The fees established ~~as provided in this subsection shall~~ under this subsection must be made applicable throughout the area of the county outside municipalities. Schedules of rates, fees, charges, and penalties for providing structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of

the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this ~~section~~ subsection may not exceed the county's cost of providing a stormwater and drainage system.

No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a single structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee ~~pursuant to this act~~ for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing structural and natural stormwater and drainage system services."

Sec. 46. G.S. 160A-314(a1) reads as rewritten:

"(a1) Before it establishes or revises a schedule of rates, fees, charges, or penalties for structural and natural stormwater and drainage systems under this section, the city council shall hold a public hearing on the matter. A notice of the hearing shall be given at least once in a newspaper having general circulation in the area, not less than seven days before the public hearing. The hearing may be held concurrently with the public hearing on the proposed budget ordinance.

~~Fees~~ The fees established ~~as provided in this subsection shall~~ under this subsection must be made applicable throughout the area of the city. Schedules of rates, fees, charges, and penalties for providing structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this ~~section~~ subsection may not exceed the city's cost of providing a stormwater and drainage system.

No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a single structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee ~~pursuant to this act~~ for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing structural and natural stormwater and drainage system services."

Sec. 47. G.S. 162A-9(a) reads as rewritten:

"(a) ~~Each~~ An authority ~~shall fix, and may revise from time to time, reasonable~~ may establish and revise a schedule of rates, ~~fees~~ fees, and other charges for the use of and for the services furnished or to be furnished by any water system or sewer system or

parts thereof owned or operated by ~~such~~ the authority. ~~Such~~ The rates, ~~fees~~ fees, and charges ~~shall~~ established under this subsection are not ~~be~~ subject to supervision or regulation by any bureau, board, ~~commission~~ commission, or other agency of the State or of any political subdivision.

Before an authority sets or revises rates, fees, or other charges for structural or natural stormwater and drainage system service, the authority shall hold a public hearing on the matter. At least seven days before the hearing, the authority shall publish notice of the public hearing in a newspaper having general circulation in the area. An authority may impose rates, fees, or other charges for stormwater and drainage system service on a person even though the person has not entered into a contract to receive the service.

Rates, fees, and charges shall be fixed and revised so that the revenues of the authority, together with any other available funds, will be sufficient at all times:

(1) To pay the cost of maintaining, ~~repairing~~ repairing, and operating the systems or parts thereof owned or operated by the authority, including reserves for such purposes, and including provision for the payment of principal of and interest on indebtedness of a political subdivision or of political subdivisions which payment shall have been assumed by the authority, and

(2) To pay the principal of and the interest on all bonds issued by the authority under the provisions of this Article as the same shall become due and payable and to provide reserves therefor.

~~Fees~~ The fees established ~~as provided in this subsection shall~~ under this subsection must be made applicable throughout the service area. Schedules of rates, fees, charges, and penalties for providing structural and natural stormwater and drainage system service may vary according to whether the property served is residential, commercial, or industrial property, the property's use, the size of the property, the area of impervious surfaces on the property, the quantity and quality of the runoff from the property, the characteristics of the watershed into which stormwater from the property drains, and other factors that affect the stormwater drainage system. Rates, fees, and charges imposed under this ~~section~~ subsection for stormwater and drainage system service may not exceed the authority's cost of providing a stormwater and drainage system.

No stormwater utility fee may be levied under this subsection whenever two or more units of local government operate separate structural and natural stormwater and drainage system services in the same area within a county. However, two or more units of local government may allocate among themselves the functions, duties, powers, and responsibilities for jointly operating a single structural and natural stormwater and drainage system service in the same area within a county, provided that only one unit may levy a fee ~~pursuant to this act~~ for the service within the joint service area. For purposes of this subsection, a unit of local government shall include a regional authority providing structural and natural stormwater and drainage system services."

Sec. 48. This act is effective upon ratification. Section 2 of this act applies retroactively to June 21, 1990. Section 3 of this act applies retroactively to taxable years beginning on or after January 1, 1989.

In the General Assembly read three times and ratified this the 21st day of July, 1992.

James C. Gardner
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives