



- 1           (4)    ~~The Department of Correction is exempt from the provisions of this~~  
2           ~~Chapter, except for Article 5 of this Chapter and G.S. 150B-13 which~~  
3           ~~shall apply. Article 3 of this Chapter does not apply to the Department~~  
4           ~~of Correction.~~
- 5           (5)    Articles 2 and 3 of this Chapter shall not apply to the Department of  
6           Revenue.
- 7           (6)    Except as provided in Chapter 136 of the General Statutes, ~~Articles 2~~  
8           ~~and Article 3~~ of this Chapter ~~do~~ does not apply to the Department of  
9           Transportation.
- 10          (7)    Article 4 of this Chapter, governing judicial review of final  
11          administrative decisions, shall apply to The University of North  
12          Carolina and its constituent or affiliated boards, agencies, and  
13          institutions, but The University of North Carolina and its constituent or  
14          affiliated boards, agencies, and institutions are specifically exempted  
15          from the remaining provisions of this Chapter.
- 16          (8)    Article 4 of this Chapter shall not apply to the State Banking  
17          Commission, the Commissioner of Banks, the Savings Institutions  
18          Division of the Department of Economic and Community  
19          Development, and the Credit Union Division of the Department of  
20          Economic and Community Development.
- 21          (9)    Article 3 of this Chapter shall not apply to agencies governed by the  
22          provisions of Article 3A of this Chapter, as set out in G.S. 150B-38(a).
- 23          (10)   Articles 3 and 3A of this Chapter shall not apply to the Governor's  
24          Waste Management Board in administering the provisions of G.S.  
25          104E-6.2 and G.S. 130A-293.
- 26          (11)   Article 2 of this Chapter shall not apply to the North Carolina Low-  
27          Level Radioactive Waste Management Authority in administering the  
28          provisions of G.S. 104G-10 and G.S. 104G-11. Articles 3 and 3A of  
29          this Chapter shall not apply to the North Carolina Low-Level  
30          Radioactive Waste Management Authority in administering the  
31          provisions of G.S. 104G-9, 104G-10, and 104G-11.
- 32          (12)   Article 2 of this Chapter shall not apply to the North Carolina  
33          Hazardous Waste Management Commission in administering the  
34          provisions of G.S. 130B-13 and G.S. 130B-14. Articles 3 and 3A of  
35          this Chapter shall not apply to the North Carolina Hazardous Waste  
36          Management Commission in administering the provisions of G.S.  
37          130B-11, 130B-13, and 130B-14.
- 38          (13)   Article 3 and G.S. 150B-51(a) of this Chapter shall not apply to  
39          hearings required pursuant to the Rehabilitation Act of 1973, (Public  
40          Law 93-122), as amended and federal regulations promulgated  
41          thereunder."

42            Sec. 2. G.S. 150B-16 reads as rewritten:

43    "**§ 150B-16. Petition for adoption of rules.**

1 (a) Except as provided in subsection (b), any ~~Any~~ person may petition an agency  
2 to promulgate, amend, or repeal a rule, and may accompany his petition with such data,  
3 views, and arguments as he thinks pertinent. Each agency shall prescribe by rule the  
4 form for petitions and the procedure for their submission, consideration, and disposition.  
5 Within 30 days after submission of a petition, the agency shall either deny the petition  
6 in writing, stating its reasons for the denial, or initiate rule-making proceedings in  
7 accordance with G.S. 150B-12 and G.S. 150B-13; provided, however, commissions and  
8 boards shall act on a petition at their next regularly scheduled meeting, but in any case  
9 no later than 120 days after submission of a petition. Denial of the petition to initiate  
10 rule making under this section shall be considered a final agency decision for purposes  
11 of judicial review.

12 (b) This section does not apply to the Department of Correction."

13 Sec. 2.1. G.S. 150B-17 reads as rewritten:

14 "**§ 150B-17. Declaratory rulings.**

15 (a) On request of a person aggrieved, an agency shall issue a declaratory ruling  
16 as to the validity of a rule or as to the applicability to a given state of facts of a statute  
17 administered by the agency or of a rule or order of the agency, except when the agency  
18 for good cause finds issuance of a ruling undesirable. The agency shall prescribe in its  
19 rules the circumstances in which rulings shall or shall not be issued. A declaratory  
20 ruling is binding on the agency and the person requesting it unless it is altered or set  
21 aside by the court. An agency may not retroactively change a declaratory ruling, but  
22 nothing in this section prevents an agency from prospectively changing a declaratory  
23 ruling. A declaratory ruling is subject to judicial review in the same manner as an order  
24 in a contested case. Failure of the agency to issue a declaratory ruling on the merits  
25 within 60 days of the request for such ruling shall constitute a denial of the request as  
26 well as a denial of the merits of the request and shall be subject to judicial review.

27 (b) This section does not apply to the Department of Correction."

28 Sec. 3. The Rules Review Commission must review the rules of the  
29 Departments of Correction, Transportation, and Revenue to determine if the rules meet  
30 the standards for review in G.S. 143B-30.2. A rule that does not meet the standards is  
31 repealed effective January 1, 1994. The agencies may adopt, recodify, amend, or repeal  
32 a rule in response to an objection by the Commission in the course of this review  
33 without publishing notice in the North Carolina Register or holding a rule-making  
34 hearing.

35 Sec. 3.1. G.S. 150B-2(8a)f. reads as rewritten:

36 "f. ~~Statements of agency policy, provided that the policy is not~~  
37 ~~inconsistent with any law enacted by the General Assembly,~~  
38 Requirements, communicated to the public by the use of signs  
39 or symbols, concerning:

- 40 1. ~~The use or creation of public roads or bridges;~~
- 41 2. ~~The boundaries of public facilities and times when~~  
42 ~~public facilities are open to the public; or~~
- 43 3. ~~Safety in use of public facilities.~~

1 concerning the use of public roads, bridges, ferries, buildings,  
2 or other facilities."

3 Sec. 3.2. G.S. 150B-2(8a)h. reads as rewritten:

4 "h. Scientific, architectural, or engineering standards, forms, or  
5 ~~procedures.~~ procedures, including design criteria and  
6 construction standards used to construct or maintain highways,  
7 bridges, or ferries."

8 Sec. 4. G.S. 20-2 reads as rewritten:

9 **"§ 20-2. Commissioner of Motor Vehicles. ~~Vehicles.~~ Vehicles; rules.**

10 (a) Commissioner and Assistants.— The Division of Motor Vehicles shall be  
11 administered by the Commissioner of Motor Vehicles, who shall be appointed by and  
12 serve at the pleasure of the Secretary of the Department of Transportation. The  
13 Commissioner shall be paid an annual salary to be fixed by the General Assembly in the  
14 Current Operations Appropriations Act and allowed his traveling expenses as allowed  
15 by law.

16 In any action, proceeding, or matter of any kind, to which the Commissioner of  
17 Motor Vehicles is a party or in which he may have an interest, all pleadings, legal  
18 notices, proof of claim, warrants for collection, certificates of tax liability, executions,  
19 and other legal documents, may be signed and verified on behalf of the Commissioner  
20 of Motor Vehicles by the Assistant Commissioner of Motor Vehicles or by any director  
21 or assistant director of any section of the Division of Motor Vehicles or by any other  
22 agent or employee of the Division so authorized by the Commissioner of Motor  
23 Vehicles.

24 (b) Rules. The Commissioner may adopt rules to implement this Chapter.  
25 Chapter 150B of the General Statutes governs the adoption of rules by the  
26 Commissioner."

27 Sec. 5. G.S. 136-10 reads as rewritten:

28 **"§ 136-10. ~~Audit.~~ Audit and rules.**

29 The operations of the Department of Transportation shall be subject to the oversight  
30 of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes.  
31 Rules adopted by the Department of Transportation are subject to Chapter 150B of the  
32 General Statutes."

33 Sec. 6. G.S. 148-11 reads as rewritten:

34 **"§ 148-11. Authority to ~~make regulations.~~ adopt rules.**

35 The Secretary shall adopt rules for the government of the State prison system ~~and~~  
36 ~~shall file and publish such rules in accordance with the provisions of Article 5 of~~  
37 ~~Chapter 150B. In the case of temporary rules, such rules shall become effective~~  
38 ~~immediately upon adoption by the Secretary and shall be filed in accordance with G.S.~~  
39 ~~150B-13 within two working days of adoption.~~ Chapter 150B of the General  
40 Statutes governs the adoption of rules by the Secretary. The Secretary shall have such  
41 portion of these the rules and regulations as that pertain to enforcing discipline read to  
42 every prisoner when received in the State prison system and a printed copy of these  
43 rules ~~and regulations shall be made available to the prisoners."~~

44 Sec. 7. G.S. 105-262 reads as rewritten:

1 **"§ 105-262. Rules and regulations. Rules.**

2 The Secretary of Revenue shall, from time to time, initiate and prepare such  
3 regulations, not inconsistent with law, as may be useful and necessary to implement the  
4 provisions of all the Articles of Subchapter I (except Article 8B) and Article 36 of  
5 Subchapter V, such regulations to become effective when approved by the Tax Review  
6 Board. All regulations and amendments thereto shall be published and made available  
7 by the Secretary of Revenue. may adopt rules needed to administer a tax collected by  
8 the Secretary or to fulfill another duty delegated to the Secretary. The Tax Review  
9 Board shall review a new rule or a change to a rule before it is filed in the North  
10 Carolina Administrative Code.

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

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

19 Sec. 8. G.S. 143B-30 reads as rewritten:

20 **"§ 143B-30. Definitions.**

21 As used in this Part, the following definitions apply:

- 22 (1) 'Agency' means an agency subject to the provisions of Article 2-5 of  
23 Chapter 150B of the General Statutes.  
24 (2) 'Commission' means the Administrative Rules Review Commission.  
25 (3) 'Rule' means a 'rule', as defined in G.S. 150B-2(8a)."

26 Sec. 9. G.S. 150B-2(8a) is amended by adding a new subpart to read:

- 27 "i. Establishment of the interest rate that applies to tax assessments  
28 under G.S. 105-241.1 and the variable component of the excise  
29 tax on motor fuel under G.S. 105-434."

30 Sec. 10. This act becomes effective July 1, 1991, and applies to rules for  
31 which a notice of rule making is required to be published in the North Carolina Register  
32 on or after that date and to all rules that do not require publication of a notice of rule  
33 making and are adopted on or after that date.