

GENERAL ASSEMBLY OF NORTH CAROLINA
1993 SESSION

CHAPTER 485
SENATE BILL 155

AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE
REVENUE LAWS AND TO CLARIFY AND MODIFY THE TAX SECRECY
PROVISION.

The General Assembly of North Carolina enacts:

Section 1. Section 7 of Chapter 1007 of the 1991 Session Laws is repealed.

Sec. 2. G.S. 105-113.82(e) reads as rewritten:

"(e) Population Estimates. – To determine the population of a city or county for purposes of the distribution required by this section, the Secretary shall use the most recent annual estimate of population certified by the State ~~Budget Planning~~ Officer."

Sec. 3. G.S. 105-23(b), as amended by Chapter 362 and Chapter 371 of the 1993 Session Laws, reads as rewritten:

"(b) Exception. – An inheritance tax return is not required to be filed for an estate that meets all of the following conditions:

- (1) Its beneficiaries are all either Class A beneficiaries, as described in G.S. 105-4(a), or the surviving spouse.
- (2) Its gross value, including the value of transfers over which the decedent retained an interest and the value of gifts made within three years before the decedent's death, as provided in G.S. 105-2(a)(3), is less than ~~two hundred fifty thousand dollars (\$250,000).~~ four hundred fifty thousand dollars (\$450,000).

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450,000".

Sec. 4. G.S. 105-125 reads as rewritten:

"§ 105-125. Corporations not mentioned. Exempt corporations.

~~None of the taxes levied in this Article shall apply to charitable, religious, fraternal, benevolent, scientific or educational corporations, not operating for a profit; nor to insurance companies; nor to mutual ditch or irrigation associations, mutual or cooperative telephone associations or companies, mutual canning associations, cooperative breeding associations, or like organizations or associations of a purely local character deriving receipts solely from assessments, dues, or fees collected from members for the sole purpose of meeting expenses; nor to cooperative marketing associations operating solely for the purpose of marketing the products of members or other farmers, which operations may include activities which are directly related to such marketing activities, and turning back to them the proceeds of sales, less the necessary operating expenses of the association, including interest and dividends on capital stock~~

~~on the basis of the quantity of product furnished by them; nor to production credit associations organized under the act of Congress known as the Farm Credit Act of 1933; nor to business leagues, boards of trade, clubs organized and operated exclusively for pleasure, recreation and other nonprofitable purposes, civic leagues operated exclusively for the promotion of social welfare, or chambers of commerce and merchants' associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private stockholder, individual or other corporations; nor to corporations or organizations, such as condominium associations, homeowner associations or cooperative housing corporations not organized for profit, the membership of which is limited to the owners or occupants of residential units in the condominium, housing development, or cooperative housing corporation, and operated exclusively for the management, operation, preservation, maintenance or landscaping of the common areas and facilities owned by such corporation or organization or its members situated contiguous to such houses, apartments or other dwellings or for the management, operation, preservation, maintenance and repair of such houses, apartments or other dwellings owned by the corporation or organization or its members, but only if no part of the net earnings of such corporation or organization inures (other than through the performance of related services for the members of such corporation or organization) to the benefit of any member of such corporation or organization or other person. In addition, absent a specific provision to the contrary, the taxes levied in this Article do not apply to any organization that is exempt from federal income tax under the Code.~~

~~Provided, that each such corporation must, upon request by the Secretary of Revenue, establish in writing its claim for exemption from said provisions.~~

~~(a) Exemptions. – The following corporations are exempt from the taxes levied by this Article. Upon request of the Secretary, an exempt corporation must establish its claim for exemption in writing:~~

- ~~(1) A charitable, religious, fraternal, benevolent, scientific, or educational corporation not operated for profit.~~
- ~~(2) An insurance company subject to tax under Article 8B of this Chapter.~~
- ~~(3) A mutual ditch or irrigation association, a mutual or cooperative telephone association or company, a mutual canning association, a cooperative breeding association, or a similar corporation of a purely local character deriving receipts solely from assessments, dues, or fees collected from members for the sole purpose of meeting expenses.~~
- ~~(4) A cooperative marketing association that operates solely for the purpose of marketing the products of members or other farmers and returns to the members and farmers the proceeds of sales, less the association's necessary operating expenses, including interest and dividends on capital stock, on the basis of the quantity of product furnished by them. The association's operations may include activities directly related to these marketing activities.~~
- ~~(5) A production credit association organized under the federal Farm Credit Act of 1933.~~

- (6) A club organized and operated exclusively for pleasure, recreation, or other nonprofit purposes, a civic league operated exclusively for the promotion of social welfare, a business league, or a board of trade.
- (7) A chamber of commerce or merchants' association not organized for profit, no part of the net earnings of which inures to the benefit of a private stockholder, an individual, or another corporation.
- (8) An organization, such as a condominium association, a homeowners' association, or a cooperative housing corporation not organized for profit, the membership of which is limited to the owners or occupants of residential units in the condominium, housing development, or cooperative housing corporation. To qualify for the exemption, the organization must be operated exclusively for the management, operation, preservation, maintenance, or landscaping of the residential units owned by the organization or its members or of the common areas and facilities that are contiguous to the residential units and owned by the organization or by its members. To qualify for the exemption, no part of the net earnings of the organization may inure, other than through the performance of related services for the members of the organization, to the benefit of any person.
- (9) Except as otherwise provided by law, an organization exempt from federal income tax under the Code.

~~The provisions of G.S. 105-122 shall apply to electric light, power, gas, water, Pullman, sleeping and dining car, express, telegraph, telephone, motor bus, and truck corporations to the extent and only to the extent that the franchise taxes levied in G.S. 105-122 exceed the franchise taxes levied in other sections of this Article or schedule; except that the provisions of G.S. 105-122 shall not apply to businesses taxed under G.S. 105-120.1. The exemptions in this section shall apply only to those corporations specially mentioned, and no other.~~

(b) Certain Investment Companies. – A Provided, that any corporation doing business in North Carolina that which in the opinion of the Secretary of Revenue of North Carolina, qualifies as a 'regulated investment company' under section 851 of the Code or as a 'real estate investment trust' under the provisions of section 856 of the Code and which files with the North Carolina Department of Revenue its election elects for federal income tax purposes to be treated as a 'regulated investment company' or as a 'real estate investment trust,' shall may, in determining its basis for franchise tax be allowed to tax, deduct the aggregate market value of its investments in the stocks, bonds, debentures, or other securities or evidences of debt of other corporations, partnerships, individuals, municipalities, governmental agencies—agencies, or governments."

Sec. 5. G.S. 105-114(a) reads as rewritten:

"(a) Nature of Taxes. The taxes levied in this Article upon persons and partnerships are for the privilege of engaging in business or doing the act named. The taxes levied in this Article upon corporations are privilege or excise taxes levied upon:

- (1) Corporations organized under the laws of this State for the existence of the corporate rights and privileges granted by their charters, and the enjoyment, under the protection of the laws of this State, of the powers, rights, privileges and immunities derived from the State by the form of such existence; and
- (2) Corporations not organized under the laws of this State for doing business in this State and for the benefit and protection which such corporations receive from the government and laws of this State in doing business in this State.

If the corporation is organized under the laws of this State, the payment of the taxes levied by this Article shall be a condition precedent to the right to continue in such form of organization; and if the corporation is not organized under the laws of this State, payment of these taxes shall be a condition precedent to the right to continue to engage in doing business in this State. The taxes levied in this Article or schedule shall be for the fiscal year of the State in which the taxes become due; except that the taxes levied in G.S. 105-122 shall be for the income year of the corporation in which the taxes become due.

G.S. 105-122 does not apply to street transportation systems taxed under G.S. 105-120.1 or holding companies taxed under G.S. 105-120.2. G.S. 105-122 applies to a corporation taxed under another section of this Article only to the extent the taxes levied on the corporation in G.S. 105-122 exceed the taxes levied on the corporation in other sections of this Article."

Sec. 6. G.S. 105-127 is amended by adding at the end a new subsection to read:

"(f) After the end of the income year in which a domestic corporation is dissolved pursuant to Article 14 of Chapter 55 of the General Statutes, the corporation is no longer subject to the tax levied in this Article unless the Secretary of Revenue finds that the corporation has engaged in business activities in this State not appropriate to winding up and liquidating its business and affairs."

Sec. 7. G.S. 105-130.40(c), as amended by Section 1 of Chapter 45 of the 1993 Session Laws, reads as rewritten:

"(c) County Designation. – A severely distressed county is a county designated as severely distressed by the Secretary of Commerce. Each year, on or before December 31, the Secretary of Commerce shall designate which counties are considered severely distressed, and shall provide that information to the Secretary of Revenue. A county is considered severely distressed if its distress factor is one of the fifty highest in the State. The Secretary shall assign to each county in the State a distress factor that is the sum of the following:

- (1) The county's rank in a ranking of counties by rate of unemployment from lowest to highest.
- (2) The county's rank in a ranking of counties by per capita income from highest to lowest.
- (3) The county's rank in a ranking of counties by percentage growth in population from lowest to highest.

In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population growth, the Secretary shall use the most recent estimates of population certified by the State ~~Budget-Planning~~ Officer. A designation as a severely distressed county is effective only for the calendar year following the designation."

Sec. 8. G.S. 105-131.2(a) reads as rewritten:

"(a) Adjustment. The pro rata share of each shareholder in the income attributable to the State of an S Corporation shall be ~~subject to the adjustments 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 G.S. 105-134.6(b) and (e) adjusted as provided in G.S. 105-134.6(b), (c), and (d).~~"

Sec. 9. G.S. 105-134.6, as amended by Chapter 12 of the 1993 Session Laws, 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 (e)~~ (b), (c), and (d) 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 taxable 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, 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. Recodified as G.S. 105-134.6(d)(1).~~

(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. Recodified as G.S. 105-134.6(d)(2).~~

(9) Income that is (i) earned or received by an enrolled member of a federally recognized Indian tribe and (ii) derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the

reservation are considered income derived from activities on the reservation.

(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 taxable 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, 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)(A) 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.

(d) Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:

- (1) 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, may be deducted in the year the item of income is included. 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.

- (2) The taxpayer may deduct 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. This deduction is allowed only to the extent that a similar credit is not allowed by this Division for the amount."

Sec. 10. G.S. 105-134.7(a)(5) reads as rewritten:

- "(5) ~~The amount of any~~ If the taxpayer has a net operating loss for a taxable year beginning on or after January 1, 1989, that part of the loss that is carried back to and deducted in a taxable year beginning before January 1, 1989, pursuant to section 172 of the Code may be deducted from taxable income in the taxable year following the taxable year for which the loss occurred."

Sec. 11. G.S. 105-151.17(c), as amended by Section 2 of Chapter 45 of the 1993 Session Laws, reads as rewritten:

"(c) County Designation. – A severely distressed county is a county designated as severely distressed by the Secretary of Commerce. Each year, on or before December 31, the Secretary of Commerce shall designate which counties are considered severely distressed, and shall provide that information to the Secretary of Revenue. A county is considered severely distressed if its distress factor is one of the fifty highest in the State. The Secretary shall assign to each county in the State a distress factor that is the sum of the following:

- (1) The county's rank in a ranking of counties by rate of unemployment from lowest to highest.
- (2) The county's rank in a ranking of counties by per capita income from highest to lowest.
- (3) The county's rank in a ranking of counties by percentage growth in population from lowest to highest.

In measuring rates of unemployment and per capita income, the Secretary shall use the latest available data published by a State or federal agency generally recognized as having expertise concerning the data. In measuring population growth, the Secretary

shall use the most recent estimates of population certified by the State ~~Budget Planning~~ Officer. A designation as a severely distressed county is effective only for the calendar year following the designation."

Sec. 12. G.S. 105-163.013(d), as amended by Senate Bill 1141, Chapter _____ of the 1993 Session Laws, reads as rewritten:

"(d) Application Forms; Rules; Fees. – Applications for registration, renewal of registration, and reinstatement of registration under this section shall be in the form required by the Secretary of State. The Secretary may, by rule, require applicants to furnish supporting information in addition to the information required by subsections (a), (b), and (c) of this section. The Secretary may adopt rules in accordance with Chapter 150B of the General Statutes that are needed to carry out the Secretary's responsibilities under this Division. The Secretary shall prepare blank forms for the applications and shall distribute them throughout the State and furnish them on request. Each application shall be signed by the owners of the business or, in the case of a corporation, by its president, vice-president, treasurer, or secretary. There shall be annexed to the application the affirmation of the person making the application in the following form: 'Under penalties prescribed by law, I certify and affirm that to the best of my knowledge and belief this application is true and complete.' A person who submits a false application is guilty of a misdemeanor and is punishable as provided in G.S. 14-3.

The fee for filing an application for registration under this section shall be one hundred dollars (\$100.00). The fee for filing an application for renewal of registration under this section shall be fifty dollars (\$50.00). The fee for filing an application for reinstatement of registration under this section shall be fifty dollars (\$50.00).

An application for renewal of registration under this section shall indicate whether the applicant is a minority ~~business enterprise business~~, as defined in G.S. 143-128, and shall include a report of the number of jobs the business created during the preceding year that are attributable to investments that qualify under this section for a tax credit and the average wages paid by each job. An application that does not contain this information is incomplete and the applicant's registration may not be renewed until the information is provided."

Sec. 13. G.S. 105-187.19 reads as rewritten:

"§ 105-187.19. Use of tax proceeds.

The Secretary shall distribute the taxes collected under this Article, less the cost of collecting the taxes, in accordance with this section. The Secretary shall retain the cost of collection as reimbursement to the Department of Revenue.

Each quarter, the Secretary shall credit ten percent (10%) of the net tax proceeds to the Solid Waste Management Trust Fund and shall distribute ninety percent (90%) of the net tax proceeds among the counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the ~~Office of State Budget and Management~~ State Planning Officer. A county may use funds distributed to it under this section only as provided in G.S. 130A-309.54."

Sec. 14. G.S. 105-266.1(c) reads as rewritten:

"(c) Within 90 days after notification of the Secretary's decision with respect to a demand for refund of any tax or additional tax under this section ~~any taxpayer aggrieved thereby, in lieu section, an aggrieved taxpayer may, instead of petitioning for administrative review by the Tax Review Board under G.S. 105-241.1, may 105-241.2,~~ bring a civil action against the Secretary ~~of Revenue~~ for recovery of the alleged ~~overpayment~~ overpayment. If the alleged overpayment is more than two hundred dollars (\$200.00), the taxpayer may bring the action either in the Superior Court of Wake County, County or in the superior court of the county in which the taxpayer resides; ~~if the alleged overpayment exceeds two hundred dollars (\$200.00), and if resides; if the alleged overpayment is two hundred dollars (\$200.00) or less, the taxpayer may bring the action in any State court of competent jurisdiction in Wake County.~~ If upon trial it ~~shall be is~~ determined that there has been ~~any an~~ overpayment of tax or additional tax, judgment shall be rendered therefor, with interest, and the ~~same shall be refunded by the State. State shall refund the amount due.~~"

Sec. 15. G.S. 105-269.3 reads as rewritten:

"§ 105-269.3. Administration and enforcement 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.~~—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. 16. G.S. 105-277A(e) reads as rewritten:

"(e) Population Estimates. — In making the per capita calculations under this section, the Secretary shall use the most recent annual population estimates certified by the State ~~Budget Planning Officer.~~"

Sec. 17. G.S. 105-285(b) reads as rewritten:

"(b) Personal Property; General Rule. — Except as otherwise provided in ~~subsection (e) below, this Chapter,~~ the value, ownership, and place of taxation of personal property, both tangible and intangible, shall be determined annually as of January 1."

Sec. 18. Effective on and after January 1, 1993, G.S. 105-330.1, as amended, reads as rewritten:

"§ 105-330.1. Classification of motor vehicles.

(a) Classification. — ~~All motor vehicles, except (i) motor vehicles exempt from registration pursuant to G.S. 20-51, (ii) manufactured homes, mobile classrooms, and mobile offices, (iii) semitrailers or trailers registered on a multiyear basis, and (iv) motor vehicles owned or leased by a public service company and appraised under G.S. 105-335, are hereby vehicles other than the motor vehicles listed in subsection (b) of this section are designated a special class of property under authority of Article V, Sec.~~

2(2) of the North Carolina Constitution. Classified motor vehicles shall be listed and assessed as provided in this Article and taxes on classified motor vehicles shall be collected as provided in this Article.

(b) Exceptions. – The following motor vehicles are not classified under subsection (a) of this section:

- (1) Motor vehicles exempt from registration pursuant to G.S. 20-51.
- (2) Manufactured homes, mobile classrooms, and mobile offices.
- (3) Semitrailers or trailers registered on a multiyear basis.
- (4) Motor vehicles owned or leased by a public service company and appraised under G.S. 105-335.
- (5) 'U-drive-it' passenger vehicles registered under G.S. 20-87(2)."

Sec. 19. G.S. 105-395(c) reads as rewritten:

"(c) It is the intent of the General Assembly to make the provisions of this Subchapter ~~(being G.S. 105-291 [105-271] through 105-395, inclusive)~~ uniformly applicable throughout the State, and to assure this objective all laws and clauses of laws, including private and local acts ~~(except acts, other than local acts relating to the selection of tax collectors), collectors,~~ in conflict with ~~the provisions of this Subchapter shall, as of July 1, 1971, be and are hereby repealed.~~ repealed effective July 1, 1971. As used in this section, the term 'local acts' means any acts of the General Assembly that apply to one or more counties by name, to one or more municipalities by name, or to all municipalities within one or more named counties."

Sec. 20. G.S. 105-441(a) reads as rewritten:

"(a) Acts. – Any distributor who commits one or more of the following acts is guilty of a misdemeanor:

- (1) Fails to obtain a license required by this Article.
- (2) Willfully fails to make a report required by this Article.
- (3) Willfully fails to pay a tax when due under this Article.
- (4) Makes a false statement in an application, a report, or a statement required under this Article.
- (5) Fails to keep records as required under this Article.
- (6) Refuses to allow the Secretary of Revenue or a representative of the Secretary of Revenue to examine the distributor's books and records concerning motor fuel.
- (7) Fails to disclose the correct amount of motor fuel sold or used in this State.
- (8) Fails to file a replacement bond or an additional bond as required under this Article.

On conviction, a distributor shall be fined not less than one hundred dollars (\$100.00) and not more than five thousand dollars (\$5,000) or, in the case of an individual or the officer or employee charged with the duty of making a report for a corporation, imprisoned not exceeding 24 months, or both."

Sec. 21. G.S. 105-449.34(a), as amended by Section 1 of Chapter 140 of the 1993 Session Laws, reads as rewritten:

"(a) General Misdemeanors. – A person who commits one or more of the following acts is guilty of a misdemeanor and is punishable as provided in G.S. 14-3:

- (1) Fails to obtain a license required by this Article.
- (2) Willfully fails to make a report required by this Article.
- (3) Willfully fails to pay a tax when due under this Article.
- (4) Makes a false statement in an application, a report, or a statement required under this Article.
- (5) Fails to keep records as required under this Article.
- (6) Refuses to allow the Secretary or a representative of the Secretary to examine the licensee's books and records concerning fuel.
- (7) Fails to disclose the correct amount of fuel sold or used in this State.
- (8) Fails to file a replacement bond or an additional bond as required under this Article."

Sec. 22. G.S. 105-466(d) reads as rewritten:

"(d) ~~The board of county commissioners, upon adoption of said resolution, shall cause a certified copy of the resolution to be delivered immediately to the Secretary of Revenue.~~ Upon adoption of a resolution levying the tax, the board of county commissioners shall immediately deliver a certified copy of the resolution to the Secretary, accompanied by a certified statement from the county board of elections, if applicable, setting forth the results of any special election approving the tax in the county. ~~Thereupon, the Secretary of Revenue shall proceed as authorized in this Article to administer the tax in such county, unless said county board of commissioners shall notify the Secretary of Revenue in writing that, pursuant to a resolution duly adopted by said Board, the tax will be collected and administered by the taxing county.~~ Upon receipt of these documents, the Secretary shall collect and administer the tax as provided in this Article."

Sec. 23. G.S. 105-469 reads as rewritten:

~~§ 105-469. Collection and administration of local sales and use tax; authorization to promulgate rules and regulations. Secretary to collect and administer local sales and use tax.~~

~~Unless the county board of commissioners shall have notified the Secretary to the contrary, as provided in G.S. 105-466(d), the Secretary of Revenue~~ The Secretary shall collect and administer the local sales and use tax imposed by a taxing a tax levied by a county pursuant to the provisions of this Article and shall be charged with the duty of administering the local sales and use tax authorized to be imposed by this Article. In addition to the present statutory provisions authorizing the Secretary of Revenue to adopt and promulgate rules and regulations pertaining to the administration and collection of taxes, the Secretary of Revenue is empowered to promulgate such additional rules and regulations as are necessary and proper for the implementation of this Article."

Sec. 24. G.S. 105-472 reads as rewritten:

§ 105-472. Disposition and distribution of taxes collected.

(a) County Allocation. – The Secretary shall, on a quarterly basis, allocate to each taxing county for which the Secretary collects the tax the net proceeds of the tax

collected in that county under this Article. For the purpose of this section, 'net proceeds' means the gross proceeds of the tax collected in each county under this Article less taxes refunded, the cost to the State of collecting and administering the tax in the county as determined by the Secretary, and other deductions that may be charged to the county. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article during that month and shall include them in the quarterly distribution.

~~With respect to the counties in which he shall collect and administer the tax, the Secretary of Revenue shall, on a quarterly basis, distribute to each taxing county and to the municipalities therein the net proceeds of the tax collected in that county under this Article which amount shall be determined by deducting taxes refunded, the cost to the State of collecting and administering the tax in the taxing county and such other deductions as may be properly charged to the taxing county, from the gross amount of the tax remitted to the Secretary of Revenue from the taxing county. The Secretary shall determine the cost of collection and administration, and that amount shall be retained by the State before distribution of the net proceeds of the tax. For the purposes of this Article, 'municipalities' shall mean cities as defined by G.S. 153A-1(1).~~

(b) Distribution Between Counties and Cities. – The Secretary shall divide the amount allocated to each taxing county among the county and its municipalities in accordance with the method determined by the county. The board of county commissioners shall, in the resolution levying the tax, determine that the net proceeds of the tax shall be distributed in one of the following methods and thereafter said proceeds shall be distributed in accordance therewith: by resolution, choose one of the following methods of distribution:

- ~~(1) Per Capita Method. – The amount distributable to a taxing county and to the municipalities therein from the net proceeds of the tax collected therein shall be determined upon the following basis: The net proceeds of the tax collected in a taxing county shall be distributed to that taxing county and to the municipalities therein upon in the county on a per capita basis according to the total population of the taxing county, plus the total population of the municipalities in the county. In the case of a municipality located in more than one county, only that part of its population living in the taxing county is considered its 'total population'. therein; provided, however, that 'total population' of a municipality lying within more than one county shall be only that part of its population which lives within the taxing county. For this purpose, the Secretary of Revenue. In order to make the distribution, the Secretary shall determine a per capita figure by dividing the net proceeds of the tax collected under this Article for the preceding quarter within a amount allocated to each taxing county by the total population of that taxing county plus the total population of all municipalities therein in the county. according to the most recent~~

~~annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer. The per capita figure thus derived shall be multiplied. The Secretary shall then multiply this per capita figure by the population of the taxing county and by the population of each respective municipality therein according to the most recent annual estimates of population as certified to the Secretary of Revenue by the State Budget Officer, and in the county; each respective product shall be the amount to be distributed to each taxing the county and to each municipality therein in the county. To determine the population of each county and each municipality, the Secretary shall use the most recent annual estimate of population certified by the State Planning Officer. The State Budget Officer shall annually cause to be prepared and shall certify to the Secretary of Revenue such reasonably accurate population estimates of all counties and municipalities in the State as may be practicably developed; or~~

- (2) Ad Valorem Method. – The net proceeds of the tax collected in a taxing county shall be ~~divided between the~~ distributed to that county and the municipalities therein in the county in proportion to the total amount of ad valorem taxes levied by each on property having a tax situs in the taxing county during the fiscal year next preceding ~~such the~~ distribution. For purposes of this section, the amount of the ad valorem taxes levied by ~~such a~~ county or municipality shall include any includes ad valorem taxes levied by ~~such the~~ county or municipality in behalf of a taxing district ~~or districts~~ and collected by the county or municipality. In addition, the amount of taxes levied by a county ~~shall include any includes~~ ad valorem taxes levied by a merged school administrative unit described in G.S. 115C-513 in the part of the unit located in the county. In computing the amount of tax proceeds to be distributed to ~~any county or each county and~~ county and municipality, the amount of any ad valorem taxes levied but not substantially collected shall be ignored. Each county and municipality receiving a ~~distributable share of the sales and use~~ distribution of the proceeds of the tax levied under this Article shall in turn immediately share the proceeds with ~~any district or districts~~ each district in behalf of which the county or municipality levied ad valorem taxes in the proportion that the district levy bears to the total levy of the county or municipality. Any county or municipality ~~which that~~ fails to provide the Department of Revenue with information concerning ad valorem taxes levied by that county or municipality it adequate to permit a timely determination of ~~the its~~ its appropriate share of that county or municipality of tax proceeds collected under this Article may be excluded by the Secretary from each quarterly distribution with respect to which ~~such the~~ information was not provided in a timely manner, and such those tax proceeds shall then be distributed only to the

~~governmental unit or units whose information was provided in a timely manner, remaining counties or municipalities, as appropriate. For the purpose of computing the distribution of the tax under this subsection to any county and the municipalities located therein in the county for any quarter 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 the valuation to the county and the municipalities therein, in the county, the Department shall use the last property valuation of such the public service company which that 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. certified.~~

~~Where local use taxes, levied pursuant to this Article, or to any other local sales tax act, which cannot be identified as being attributable to any particular taxing county are collected and remitted to the Secretary, he shall apportion said taxes to the taxing counties in the same proportion that the local sales and use taxes collected each month in a taxing county bears to the total local sales and use taxes collected in all taxing counties each month during the quarter for which a distribution is to be made, and the total net proceeds shall then be distributed as above provided.~~

The board of county commissioners in each taxing county shall, by resolution adopted during the month of April of each year, determine which of the two foregoing methods of distribution shall be in effect in the county during the next succeeding fiscal year. In order for ~~such the~~ resolution to be effective, a certified copy ~~thereof of it~~ must be delivered to the Secretary of Revenue at his office in Raleigh within 15 calendar days after its adoption. If the board fails to adopt ~~any a~~ resolution ~~or if it fails to adopt~~ choosing a method of distribution not then in effect in the county, or if a certified copy of the resolution is not timely delivered to the Secretary, the method of distribution then in effect in the county shall continue in effect for the following fiscal year. The method of distribution in effect on the first of July of each fiscal year shall apply to every distribution made during that fiscal year.

(c) Municipality Defined. – As used in this Article, the term 'municipality' means 'city' as defined in G.S. 153A-1."

Sec. 25. G.S. 105-482 reads as rewritten:

"§ 105-482. Limitations.

This Article applies only to counties that levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session ~~Laws and do not levy one-half percent (1/2%) local sales and use taxes under Article 41 of this Chapter. Laws.~~

Sec. 26. G.S. 105-483 reads as rewritten:

"§ 105-483. Levy and collection of additional taxes.

Any county subject to this Article may levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to

law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean Article 40 of ~~Chapter 105.~~ this Chapter. ~~All taxes levied pursuant to this Article shall be collected by the Secretary and may not be collected by a taxing county.~~—The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article."

Sec. 27. G.S. 105-498 reads as rewritten:

"§ 105-498. Levy and collection of additional taxes.

Any county subject to this Article may levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean Article 42 of ~~Chapter 105.~~ this Chapter. ~~All taxes levied pursuant to this Article shall be collected by the Secretary and may not be collected by a taxing county.~~—The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article."

Sec. 28. G.S. 160A-623(h) reads as rewritten:

"(h) Tax Situs. ~~—The fact that the county listed by the owner under G.S. 105-314 as the county where the vehicle is subject to ad valorem taxation is within the territorial jurisdiction of the Authority shall be prima facie evidence that the vehicle has a tax situs within the territorial jurisdiction of the Authority.~~—The tax situs of a motor vehicle for the purpose of this section is its ad valorem tax situs. If the vehicle is exempt from ad valorem tax, its tax situs for the purpose of this section is the ad valorem tax situs it would have if it were not exempt from ad valorem tax."

Sec. 29. The caption to G.S. 105-449.16 reads as rewritten:

"§ 105-449.16. Levy of tax, tax and application of tax proceeds, and exemption for nonanhydrous ethanol proceeds."

Sec. 30. G.S. 105-434(c) is repealed.

Sec. 31. G.S. 105-259 reads as rewritten:

"§ 105-259. Secrecy required of officials; penalty for violation.

~~With respect to any one of the following persons: (i) the Secretary of Revenue and all other officers or employees, and former officers and employees, of the Department of Revenue; (ii) local tax officials, as defined in G.S. 105-273, and former local tax officials; (iii) members and former members of the Property Tax Commission; (iv) any other person authorized in this section to receive information concerning any item contained in any report or return, or authorized to inspect any report or return; and (v) the Commissioner of Insurance and all other officers or employees and former officers and employees of the Department of Insurance with respect to State and federal income tax returns filed with the Commissioner of Insurance by domestic insurance companies; and except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for any of these persons to divulge or make known in any manner the amount of income, income tax or other taxes of any taxpayer, or information relating~~

~~thereto or from which the amount of income, income tax or other taxes or any part thereof might be determined, deduced or estimated, whether it is set forth or disclosed in or by means of any report or return required to be filed or furnished under this Subchapter, or in or by means of any audit, assessment, application, correspondence, schedule or other document relating to the taxpayer, notwithstanding the provisions of Chapter 132 of the General Statutes or of any other law or laws relating to public records. It shall likewise be unlawful to reveal whether or not any taxpayer has filed a return, and to abstract, compile or furnish to any person, firm or corporation not otherwise entitled to information relating to the amount of income, income tax or other taxes of a taxpayer, any list of names, addresses, social security numbers or other personal information concerning the taxpayer, whether or not the list discloses a taxpayer's income, income tax or other taxes, or any part thereof, except that when an election is made by a husband and wife under G.S. 105-152.1 to file a joint return, any information given to one spouse concerning the income or income tax of the other spouse reported or reportable on the joint return shall not be a violation of the provisions of this section.~~

~~Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, and the items thereof; the inspection of these reports or returns by the Governor, Attorney General, or their duly authorized representative; or the inspection by a legal representative of the State of the report or return of any taxpayer who shall bring an action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or penalty imposed by this Subchapter; nor shall the provisions of this section prohibit the Department of Revenue furnishing information to other governmental agencies of persons and firms properly licensed under Schedule B, G.S. 105-33 to 105-113. The Department of Revenue may exchange information with the officers of organized associations of taxpayers under Schedule B, G.S. 105-33 to 105-113, with respect to parties liable for these taxes and as to parties who have paid these license taxes.~~

~~When any record of the Department of Revenue has been photographed, photocopied, or microphotocopied pursuant to the authority contained in G.S. 8-45.3, the original of that record may thereafter be destroyed at any time upon the order of the Secretary of Revenue, notwithstanding the provisions of G.S. 121-5, G.S. 132-2, or any other law relating to the preservation of public records. Any record that has not been so photographed, photocopied, or microphotocopied shall be preserved for three years, and thereafter until the Secretary of Revenue orders it destroyed.~~

~~Any person, officer, agent, clerk, employee, or local tax official or any former officer, employee, or local tax official who violates the provisions of this section shall be guilty of a misdemeanor and fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000) and/or imprisoned, in the discretion of the court; and if the person committing the violation is a public officer or employee, that person shall be dismissed from such office or employment, and may not hold any public office or employment in this State for a period of five years thereafter.~~

~~Notwithstanding the provisions of this section, the Secretary of Revenue may permit the Commissioner of Internal Revenue of the United States, or the revenue officer of any other state imposing any of the taxes imposed in this Subchapter, or the duly authorized representative of either, to inspect the report or return of any taxpayer; or may furnish that person an abstract of the report or return of any taxpayer; or supply that person with information concerning any item contained in any report or return, or disclosed by the report of any investigation of any report or return of any taxpayer. The permission, however, may be granted or the information furnished to the officer or agent only if the statutes of the United States or of the other state grant substantially similar privilege to the Secretary of Revenue of this State or the Secretary's duly authorized representative. Notwithstanding any other provision of law, the Secretary may also furnish names, addresses, and account and identification numbers of (i) taxpayers who may be entitled to property held in the Escheat Fund to the Department of State Treasurer when that Department requests the information for the purpose of administering Chapter 116B of the General Statutes, and (ii) taxpayers to the Employment Security Commission when that Commission requests the information for the purpose of administering Article 2 of Chapter 96 of the General Statutes. Neither this section nor any other law prevents the exchange of information between the Department of Revenue and the Department of Transportation's Division of Motor Vehicles when the information is needed by either to administer the laws with which they are charged. Notwithstanding any other provision of law, State officers and employees who perform computerized data processing functions pursuant to G.S. 143-341(9) for the Department of Revenue are authorized to receive and process for the Department of Revenue information in reports and returns and are subject to the criminal provisions of this section.~~

~~Notwithstanding the provisions of this section, the Secretary of Revenue may contract with any person, firm or corporation to receive and address, sort, bag, or deliver to the United States Postal Service any bulk mailing originated by the Department of Revenue, and may deliver the mail to the contractor pursuant to the contract. To ensure performance of the contract, the contractor shall furnish a bond in a form and amount acceptable to the Secretary.~~

~~Notwithstanding the provisions of this section, the Secretary of Revenue may contract with a financial institution for the receipt of withheld income tax payments under G.S. 105-163.6.~~

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

~~(1) Employee or officer. – The term includes a former employee, a former officer, and a current or former member of a State board or commission.~~

~~(2) Tax information. – Any information from any source concerning the liability of a taxpayer for a tax, as defined in G.S. 105-228.90. The term includes the following:~~

~~a. Information contained on a tax return, a tax report, or an application for a license for which a tax is imposed.~~

- b. Information obtained through an audit of a taxpayer or by correspondence with a taxpayer.
- c. Information on whether a taxpayer has filed a tax return or a tax report.
- d. A list or other compilation of the names, addresses, social security numbers, or similar information concerning taxpayers.

The term does not include (i) statistics classified so that information about specific taxpayers cannot be identified or (ii) information submitted to the Business License Information Office of the Department of Secretary of State on a master application form for various business licenses.

(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has access to tax information in the course of service to or employment by the State may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

- (1) To comply with a court order or a law.
- (2) Review by the Attorney General or a representative of the Attorney General.
- (3) Review by a tax official of another state or the Internal Revenue Commissioner of the United States to aid the state or the Commissioner in collecting a tax imposed by this State, the other state, or the United States if the laws of the other state or the United States allow the state or the United States to provide similar tax information to a representative of this State.
- (4) To provide a governmental agency or an officer of an organized association of taxpayers with a list of taxpayers who have paid a privilege license tax under Article 2 of this Chapter.
- (5) To furnish to the chair of a board of county commissioners information on the county sales and use tax.
- (6) To sort, process, or deliver tax information on behalf of the Department of Revenue.
- (7) To exchange information with the Division of Motor Vehicles of the Department of Transportation when the information is needed to fulfill a duty imposed on the Department of Revenue or the Division of Motor Vehicles.
- (8) To furnish to the Department of State Treasurer, upon request, the name, address, and account and identification numbers of a taxpayer who may be entitled to property held in the Escheat Fund.
- (9) To furnish to the Employment Security Commission the name, address, and account and identification numbers of a taxpayer when the information is requested by the Commission in order to fulfill a duty imposed under Article 2 of Chapter 96 of the General Statutes.
- (10) Review by the State Auditor to the extent authorized in G.S. 147-64.7.

- (11) To give a spouse who elects to file a joint tax return a copy of the return or information contained on the return.
- (12) To contract with a financial institution for the receipt of withheld income tax payments under G.S. 105-163.6 or for the transmittal of payments by electronic funds transfer.
- (13) To furnish the Fiscal Research Division of the General Assembly, upon request, a sample, suitable in character, composition, and size for statistical analyses, of tax returns or other tax information from which taxpayers' names and identification numbers have been removed.
- (14) To exchange information concerning a tax imposed by Subchapter V of this Chapter with the Standards Division of the Department of Agriculture when the information is needed to administer the Gasoline and Oil Inspection Act, Article 3 of Chapter 119 of the General Statutes.
- (15) To exchange information concerning a tax imposed by Articles 2A, 2B, 2C, or 2D of this Chapter with one of the following agencies when the information is needed to fulfill a duty imposed on the agency:
 - a. The North Carolina Alcoholic Beverage Control Commission.
 - b. The Division of Alcohol Law Enforcement of the Department of Crime Control and Public Safety.
 - c. The Bureau of Alcohol, Tobacco, and Firearms of the United States Treasury Department.
- (16) To furnish to the Department of Secretary of State the name, address, and account and identification numbers of a corporation liable for corporate income or franchise taxes to enable the Secretary of State to notify the corporation of the annual report filing requirement or that its articles of incorporation or its certificate of authority has been suspended.
- (17) To inform the Business License Information Office of the Department of Secretary of State of the status of an application for a license for which a tax is imposed and of any information needed to process the application.
- (18) To furnish to the Office of the State Controller the name, address, and account and identification numbers of a taxpayer upon request to enable the State Controller to verify statewide vendor files or track debtors of the State.

(c) Punishment. – A person who violates this section is guilty of a misdemeanor and may be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000), imprisoned for up to two years, or both. If the person committing the violation is an officer or employee, that person shall be dismissed from public office or public employment and may not hold any public office or public employment in this State for five years after the violation."

Sec. 32. G.S. 75-28 reads as rewritten:

"§ 75-28. Unauthorized disclosure of tax information; violation a misdemeanor.

Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for any person, firm or corporation employed or engaged to prepare, or who or which prepares or undertakes to prepare, for any other person or taxpayer any tax form, report or return, to disclose, divulge or make known in any manner or use for any purpose or in any manner other than in the preparation of such form, report or return, without the express consent of the taxpayer or person for whom the form or return is prepared, the name or address of the taxpayer or such other person, the amount of income, income tax or other taxes, or any other information shown on or included in such form, report or return, or any information which may be or may have been furnished by the taxpayer or such other person to the preparer of such form, report or return or to the person, firm or corporation so employed or engaged.

~~Nothing in this section shall be construed to amend or modify the authority specified in G.S. 105-276(6) or any statute enacted in substitution therefor.~~

~~Nothing in this section shall be construed to prohibit the inspection of such forms, reports or returns required under Subchapter I of Chapter 105 of the General Statutes in accordance with the authority provided in G.S. 105-259, or the examination of any person, books, papers, records or other data in accordance with the authority provided in G.S. 105-258.~~

Any person, firm or corporation, or any officer, agent, clerk, employee, or former officer or employee, of any firm or corporation engaged or formerly engaged in the preparation of tax forms, reports or returns for others, whether acting for himself or as agent for such corporation, who or which shall violate the provisions of this section shall be guilty of a misdemeanor and shall be fined or imprisoned in the discretion of the court."

Sec. 33. Article 7 of Chapter 153A of the General Statutes is amended by adding a new section to read:

"§ 153A-148.1. Disclosure of certain information prohibited.

(a) Disclosure Prohibited. – Notwithstanding Chapter 132 of the General Statutes or any other law regarding access to public records, local tax records that contain information about a taxpayer's income or receipts are not public records. A current or former officer, employee, or agent of a county who in the course of service to or employment by the county has access to information about the amount of a taxpayer's income or receipts may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

- (1) To comply with a court order or a law.
- (2) Review by the Attorney General or a representative of the Attorney General.
- (3) To sort, process, or deliver tax information on behalf of the county, as necessary to administer a tax.

(b) Punishment. – A person who violates this section is guilty of a misdemeanor and may be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000), imprisoned for up to two years, or both. If the person committing the violation is an officer or employee, that person shall be dismissed from

public office or public employment and may not hold any public office or public employment in this State for five years after the violation."

Sec. 34. Article 9 of Chapter 160A of the General Statutes is amended by adding a new section to read:

"§ 160A-208.1. Disclosure of certain information prohibited.

(a) Disclosure Prohibited. – Notwithstanding Chapter 132 of the General Statutes or any other law regarding access to public records, local tax records that contain information about a taxpayer's income or receipts are not public records. A current or former officer, employee, or agent of a city who in the course of service to or employment by the city has access to information about the amount of a taxpayer's income or receipts may not disclose the information to any other person unless the disclosure is made for one of the following purposes:

- (1) To comply with a court order or a law.
- (2) Review by the Attorney General or a representative of the Attorney General.
- (3) To sort, process, or deliver tax information on behalf of the city, as necessary to administer a tax.

(b) Punishment. – A person who violates this section is guilty of a misdemeanor and may be fined not less than two hundred dollars (\$200.00) nor more than one thousand dollars (\$1,000), imprisoned for up to two years, or both. If the person committing the violation is an officer or employee, that person shall be dismissed from public office or public employment and may not hold any public office or public employment in this State for five years after the violation."

Sec. 35. G.S. 105-289(e) reads as rewritten:

"(e) The Department of Revenue may furnish the following information to a local tax official:

- (1) Information contained in a report to it or to any other State department; and
- (2) Information the Department has in its possession that may assist a local tax official in securing complete tax listings, appraising or assessing taxable property, collecting taxes, or presenting information in administrative or judicial proceedings involving the listing, appraisal, or assessment of property.

A local tax official may use information obtained from the Department under this subsection only for the purposes stated in subdivision (2). A local tax official may not divulge or make public this information except as required in administrative or judicial proceedings under this Subchapter. A local tax official who makes improper use of or discloses information obtained from the Department under this subsection is punishable as provided in ~~G.S. 105-259-153A-148.1~~ or G.S. 160A-208.1, as appropriate.

The Department may not furnish information to a local tax official pursuant to this subsection unless it has obtained a written certification from the official stating that ~~he~~ the official is familiar with the provisions of ~~both~~ this subsection and ~~G.S. 105-259-153A-148.1~~ or G.S. 160A-208.1, as appropriate, and that information obtained from the

Department under this subsection will be used only for the purposes stated in subdivision (2)."

Sec. 36. G.S. 105-449.57 reads as rewritten:

"§ 105-449.57. Cooperative agreements between states.

The Secretary may enter into cooperative agreements with other states for exchange of information in administering the tax imposed by this Article. No agreement, arrangement, declaration, or amendment to an agreement is effective until stated in writing and approved by the Secretary.

An agreement may provide for determining the base state for motor carriers, records requirements, audit procedures, exchange of information, persons eligible for tax licensing, defining qualified motor vehicles, determining if bonding is required, specifying reporting requirements and periods, including defining uniform penalty and interest rates for late reporting, determining methods for collecting and forwarding of gasoline or other motor fuel taxes and penalties to another jurisdiction, and such other provisions as will facilitate the administration of the agreement.

~~Notwithstanding the provisions of G.S. 105-259 to the contrary,~~ In accordance with G.S. 105-259, the Secretary may, as required by the terms of an agreement, forward to officials of another state any information in the Department's possession relative to the use of gasoline or other motor fuels by any motor carrier. The Secretary may disclose to officials of another state the location of offices, motor vehicles, and other real and personal property of motor carriers.

An agreement may provide for each state to audit the records of motor carriers based in the state to determine if the gasoline or other motor fuel taxes due each state are properly reported and paid. Each state shall forward the findings of the audits performed on motor carriers based in the state to each state in which the carrier has taxable use of gasoline or other motor fuels. For motor carriers not based in this State who have taxable use of gasoline or other motor fuels in this State, the Secretary may utilize the audit findings received from another state as the basis upon which to propose assessments of gasoline or other motor fuel taxes against the carrier as though the audit had been conducted by the Secretary. Penalties and interest shall be assessed at the rates provided in the agreement.

No agreement entered into pursuant to this section may preclude the Department from auditing the records of any motor carrier covered by this Chapter.

The provisions of Article 9 of this Chapter apply to any assessment or order made under this section.

The Secretary may not enter into any agreement that would increase or decrease taxes and fees imposed under Subchapter V of Chapter 105 of the General Statutes, and any provision to the contrary is void."

Sec. 37. G.S. 120-19 reads as rewritten:

"§ 120-19. State officers, etc., upon request, to furnish data and information to legislative committees.

~~All~~ Except as provided in G.S. 105-259, all officers, agents, agencies and departments of the State are required to give to any committee of the General Assembly, upon request, all information and all data within their possession, or ascertainable from

their records. This requirement is mandatory and shall include requests made by any individual member of the General Assembly or ~~any one of its committees or chairmen thereof. the chair of a committee.~~"

Sec. 38. G.S. 132-1.1 reads as rewritten:

"§ 132-1.1. Confidential communications by legal counsel to public board or agency; ~~not public records. State tax information.~~

(a) Confidential Communications. – Public records, as defined in G.S. 132-1, shall not include written communications (and copies thereof) to any public board, council, commission or other governmental body of the State or of any county, municipality or other political subdivision or unit of government, made within the scope of the attorney-client relationship by any attorney-at-law serving any such governmental body, concerning any claim against or on behalf of the governmental body or the governmental entity for which such body acts, or concerning the prosecution, defense, settlement or litigation of any judicial action, or any administrative or other type of proceeding to which the governmental body is a party or by which it is or may be directly affected. Such written communication and copies thereof shall not be open to public inspection, examination or copying unless specifically made public by the governmental body receiving such written communications; provided, however, that such written communications and copies thereof shall become public records as defined in G.S. 132-1 three years from the date such communication was received by such public board, council, commission or other governmental body.

(b) State Tax Information. – Tax information may not be disclosed except as provided in G.S. 105-259, 153A-148.1, and 160A-208.1. As used in this subsection, 'tax information' has the same meaning as in G.S. 105-259."

Sec. 39. G.S. 132-3 reads as rewritten:

"§ 132-3. Destruction of records regulated.

(a) Prohibition. – No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5, without the consent of the Department of Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, defaces, mutilates or destroys it shall be guilty of a misdemeanor and upon conviction fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00).

(b) Revenue Records. – Notwithstanding subsection (a) of this section and G.S. 121-5, when a record of the Department of Revenue has been copied in any manner, the original record may be destroyed upon the order of the Secretary of Revenue. If a record of the Department of Revenue has not been copied, the original record shall be preserved for at least three years. After three years the original record may be destroyed upon the order of the Secretary of Revenue."

Sec. 40. Except as otherwise provided in this act, this act is effective upon ratification. Sections 20 and 21 of this act apply to offenses committed on or after the date of ratification.

In the General Assembly read three times and ratified this the 23rd day of July, 1993.

Dennis A. Wicker
President of the Senate

Daniel Blue, Jr.
Speaker of the House of Representatives