

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 33
Second Edition Engrossed 2/19/97

Short Title: Revenue Laws Technical Changes.

(Public)

Sponsors: Senators Cochrane, Cooper, Kerr, Shaw of Cumberland, Soles; Foxx and Warren.

Referred to: Finance.

February 3, 1997

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE TECHNICAL AND CONFORMING CHANGES TO THE
3 REVENUE LAWS AND RELATED STATUTES.

4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 14-407 is repealed.

6 Section 2. Effective January 1, 1997, G.S. 105-23(b) reads as rewritten:

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

9 (1) Its beneficiaries are all either Class A beneficiaries, as described in G.S.
10 105-4(a), or the surviving spouse.

11 (2) Its gross value, including the value of transfers over which the decedent
12 retained an interest and the value of gifts made within three years before
13 the decedent's death, as provided in G.S. 105-2(a)(3), is less than ~~four~~
14 ~~hundred fifty thousand dollars (\$450,000).~~ six hundred thousand dollars
15 (\$600,000)."

16 Section 3. G.S. 105-130.22 reads as rewritten:

17 "**§ 105-130.22. Tax credit for construction of dwelling units for handicapped**
18 **persons.**"

1 There ~~shall be~~ is allowed to corporate owners of multifamily rental units located in
2 ~~North Carolina this State~~ as a credit against the tax imposed by this Division, an amount
3 equal to five hundred fifty dollars (\$550.00) for each dwelling unit constructed by ~~such~~
4 ~~corporate owner which~~ the corporate owner that conforms to the requirements of section
5 (11x) Volume I-C of the North Carolina Building Code for the taxable year within which
6 the construction of such the dwelling unit is completed; provided, that credit will be allowed
7 under this section only for the number of such completed. The credit is allowed only for
8 dwelling units completed during the taxable year which that were required to be built in
9 compliance with section (11x) Volume I-C of the North Carolina Building Code; provided
10 further, that if Code. If the credit allowed by this section exceeds the tax imposed by this
11 Division reduced by all other credits allowed by the provisions of this Division, such excess
12 shall be allowed against the tax imposed by this Division allowed, the excess may be carried
13 forward for the next succeeding year; and provided further, that in year. In order to secure
14 the credit allowed by this section the corporation shall file with its income tax return for
15 the taxable year with respect to which such credit is to be claimed, a copy of the occupancy
16 permit on the face of which there shall be is recorded by the building inspector the number
17 of units completed during the taxable year which conform to section (11x) that conform to
18 Volume I-C of the North Carolina Building Code. When he has recorded After recording
19 the number of such these units on the face of the occupancy permit, the building inspector
20 shall promptly make and forward a copy of the permit to the Special Office for the
21 Handicapped, Building Accessibilty Section of the Department of Insurance."

22 Section 4. G.S. 105-151.1 reads as rewritten:

23 **"§ 105-151.1. Tax credit for construction of dwelling units for handicapped persons.**

24 There ~~shall be~~ is allowed to resident owners of multifamily rental units located in
25 ~~North Carolina this State~~ as a credit against the tax imposed by this Division an amount
26 equal to five hundred fifty dollars (\$550.00) for each dwelling unit constructed by the
27 resident owner that conforms to Volume I-C of the North Carolina Building Code for the
28 taxable year within which the construction of the dwelling unit is completed. The credit
29 is allowed only for dwelling units completed during the taxable year that were required to
30 be built in compliance with Volume I-C of the North Carolina Building Code. If the
31 credit allowed by this section exceeds the tax imposed by this Division reduced by all
32 other credits allowed, the excess may be carried forward for the next succeeding year. In
33 order to claim the credit allowed by this section, the taxpayer shall file with its income
34 tax return a copy of the occupancy permit on the face of which is recorded by the
35 building inspector the number of units completed during the taxable year that conform to
36 Volume I-C of the North Carolina Building Code. After recording the number of these
37 units on the face of the occupancy permit, the building inspector shall promptly forward a
38 copy of the permit to the Building Accessibility Section of the Department of Insurance.
39 ~~to the recommendations of section (11x) of the North Carolina Building Code for the~~
40 ~~taxable year within which the construction of the dwelling units is completed; provided,~~
41 ~~that credit will be allowed under this section only for the number of dwelling units~~
42 ~~completed during the taxable year that were required to be built in compliance with~~
43 ~~section (11x) of the North Carolina Building Code; provided further, that if the credit~~

1 allowed by this section exceeds the tax imposed by this Division reduced by all other
2 credits allowed by this Division, the excess shall be allowed as a credit against the tax
3 imposed by this Division for the next succeeding year; and provided further, that in order
4 to secure the credit allowed by this section the taxpayer shall file with the income tax
5 return for the taxable year with respect to which the credit is to be claimed, a copy of the
6 occupancy permit on the face of which there shall be recorded by the building inspector
7 the number of units completed during the taxable year that conform to section (11x) of
8 the North Carolina Building Code. After recording the number of units on the face of the
9 occupancy permit, the building inspector shall promptly forward a copy of the permit to
10 the Special Office for the Handicapped, Department of Insurance."

11 Section 5. G.S. 105-163.010 reads as rewritten:

12 **"§ 105-163.010. (Repealed effective for investments made on or after January 1,**
13 **1999) Definitions.**

14 The following definitions apply in this Division:

- 15 (1) ~~Affiliate.—An individual or business that controls, is controlled by, or~~
16 ~~is under common control with another individual or business.~~
- 17 (2) ~~Business.—A corporation, partnership, association, or sole~~
18 ~~proprietorship operated for profit.~~
- 19 (3) ~~Control.—A person controls an entity if the person owns, directly or~~
20 ~~indirectly, more than ten percent (10%) of the voting securities of that~~
21 ~~entity. As used in this subdivision, the term 'voting security' means a~~
22 ~~security that (i) confers upon the holder the right to vote for the election~~
23 ~~of members of the board of directors or similar governing body of the~~
24 ~~business or (ii) is convertible into, or entitles the holder to receive upon~~
25 ~~its exercise, a security that confers such a right to vote. A general~~
26 ~~partnership interest is a voting security.~~
- 27 (4) ~~Equity security.—Common stock, preferred stock, or an interest in a~~
28 ~~partnership, or subordinated debt that is convertible into, or entitles the~~
29 ~~holder to receive upon its exercise, common stock, preferred stock, or~~
30 ~~an interest in a partnership.~~
- 31 (5) ~~Financial institution.—A business that is (i) a bank holding company, as~~
32 ~~defined in the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841~~
33 ~~et seq., or its wholly owned subsidiary, (ii) registered as a broker-dealer~~
34 ~~under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a et seq., or~~
35 ~~its wholly owned subsidiary, (iii) an investment company as defined in~~
36 ~~the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1 et seq.,~~
37 ~~whether or not it is required to register under that act, (iv) a small~~
38 ~~business investment company as defined in the Small Business~~
39 ~~Investment Act of 1958, 15 U.S.C. §§ 661 et seq., (v) a pension or~~
40 ~~profit-sharing fund or trust, or (vi) a bank, savings institution, trust~~
41 ~~company, financial services company, or insurance company; provided,~~
42 ~~however, that a business, other than a small business investment~~
43 ~~company, is not a financial institution if its net worth, when added to the~~

1 net worth of all of its affiliates, is less than ten million dollars
2 (\$10,000,000); provided further, however, that a business is not a
3 financial institution if it does not generally market its services to the
4 public and it is controlled by a business that is not a financial institution.

5 (6) Repealed by Session Laws 1991, c. 637.

6 (6a) North Carolina Enterprise Corporation.—A corporation established in
7 accordance with Article 3 of Chapter 53A of the General Statutes or a
8 limited partnership in which a North Carolina Enterprise Corporation is
9 the only general partner.

10 (6b) Pass-through entity.—An entity or business, including a limited
11 partnership, a general partnership, a joint venture, a Subchapter S
12 Corporation, or a limited liability company, all of which is treated as
13 owned by individuals or other entities under the federal tax laws, in
14 which the owners report their share of the income, losses, and credits
15 from the entity or business on their income tax returns filed with this
16 State. For the purpose of this Division, an owner of a pass-through
17 entity is an individual or entity who is treated as an owner under the
18 federal tax laws.

19 (7) Qualified business venture.—A business that (i) engages primarily in
20 manufacturing, processing, warehousing, wholesaling, research and
21 development, or a service-related industry, and (ii) is registered with the
22 Secretary of State under G.S. 105-163.013.

23 (8) Qualified grantee business.—A business that (i) has received during the
24 preceding three years a grant or other funding from the North Carolina
25 Technological Development Authority, the North Carolina
26 Technological Development Authority, Inc., North Carolina First Flight,
27 Inc., the North Carolina Biotechnology Center, the Microelectronics
28 Center of North Carolina, the Kenan Institute for Engineering,
29 Technology and Science, or the Federal Small Business Innovation
30 Research Program, and (ii) is registered with the Secretary of State
31 under G.S. 105-163.013.

32 (9) Repealed by Session Laws 1993, c. 443, s. 1.

33 (9a) Real estate-related business.—A business that is involved in or related
34 to the brokerage, selling, purchasing, leasing, operating, or managing of
35 hotels, motels, nursing homes or other lodging facilities, golf courses,
36 sports or social clubs, restaurants, storage facilities, or commercial or
37 residential lots or buildings is a real estate-related business, except that a
38 real estate-related business does not include (i) a business that purchases
39 or leases real estate from others for the purpose of providing itself with
40 facilities from which to conduct a business that is not itself a real estate-
41 related business or (ii) a business that is not otherwise a real estate-
42 related business but that leases, subleases, or otherwise provides to one
43 or more other persons a number of square feet of space which in the

- 1 aggregate does not exceed fifty percent (50%) of the number of square
2 feet of space occupied by the business for its other activities.
- 3 (9b) ~~Selling or leasing at retail.— A business is selling or leasing at retail if~~
4 ~~the business either (i) sells or leases any product or service of any nature~~
5 ~~from a store or other location open to the public generally or (ii) sells or~~
6 ~~leases products or services of any nature by means other than to or~~
7 ~~through one or more other businesses.~~
- 8 (9c) ~~Service-related industry.— A business is engaged in a service-related~~
9 ~~industry, whether or not it also sells a product, if it provides services to~~
10 ~~customers or clients and does not as a substantial part of its business~~
11 ~~engage in a business described in G.S. 105-163.013(b)(4). A business is~~
12 ~~engaged as a substantial part of its business in an activity described in~~
13 ~~G.S. 105-163.013(b)(4) if (i) its gross revenues derived from all~~
14 ~~activities described in that subdivision exceed twenty five percent~~
15 ~~(25%) of its gross revenues in any fiscal year or (ii) it is established as~~
16 ~~one of its primary purposes to engage in any activities described in that~~
17 ~~subdivision, whether or not its purposes were stated in its articles of~~
18 ~~incorporation or similar organization documents.~~
- 19 (10) ~~Security.— A security as defined in Section 2(1) of the Securities Act of~~
20 ~~1933, 15 U.S.C. § 77b(1).~~
- 21 (11) ~~Subordinated debt.— Indebtedness that (i) by its terms matures five or~~
22 ~~more years after its issuance, (ii) is not secured, and (iii) is subordinated~~
23 ~~to all other indebtedness of the issuer issued or to be issued to a~~
24 ~~financial institution other than a financial institution described in~~
25 ~~subdivisions (5)(ii) through (5)(v) of this section.— Any portion of~~
26 ~~indebtedness that matures earlier than five years after its issuance is not~~
27 ~~subordinated debt.~~
- 28 (1) Affiliate. – An individual or business that controls, is controlled by, or
29 is under common control with another individual or business.
- 30 (2) Business. – A corporation, partnership, association, or sole
31 proprietorship operated for profit.
- 32 (3) Control. – A person controls an entity if the person owns, directly or
33 indirectly, more than ten percent (10%) of the voting securities of that
34 entity. As used in this subdivision, the term 'voting security' means a
35 security that (i) confers upon the holder the right to vote for the election
36 of members of the board of directors or similar governing body of the
37 business or (ii) is convertible into, or entitles the holder to receive upon
38 its exercise, a security that confers such a right to vote. A general
39 partnership interest is a voting security.
- 40 (4) Equity security. – Common stock, preferred stock, or an interest in a
41 partnership, or subordinated debt that is convertible into, or entitles the
42 holder to receive upon its exercise, common stock, preferred stock, or
43 an interest in a partnership.

- 1 (5) Financial institution. – A business that is (i) a bank holding company, as
2 defined in the Bank Holding Company Act of 1956, 12 U.S.C. §§ 1841,
3 et seq., or its wholly owned subsidiary, (ii) registered as a broker-dealer
4 under the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a, et seq., or
5 its wholly owned subsidiary, (iii) an investment company as defined in
6 the Investment Company Act of 1940, 15 U.S.C. §§ 80a-1, et seq.,
7 whether or not it is required to register under that act, (iv) a small
8 business investment company as defined in the Small Business
9 Investment Act of 1958, 15 U.S.C. §§ 661, et seq., (v) a pension or
10 profit-sharing fund or trust, or (vi) a bank, savings institution, trust
11 company, financial services company, or insurance company. The term
12 does not include, however, a business, other than a small business
13 investment company, whose net worth, when added to the net worth of
14 all of its affiliates, is less than ten million dollars (\$10,000,000). The
15 term also does not include a business that does not generally market its
16 services to the public and is controlled by a business that is not a
17 financial institution.
- 18 (6) North Carolina Enterprise Corporation. – A corporation established in
19 accordance with Article 3 of Chapter 53A of the General Statutes or a
20 limited partnership in which a North Carolina Enterprise Corporation is
21 the only general partner.
- 22 (7) Pass-through entity. – An entity or business, including a limited
23 partnership, a general partnership, a joint venture, a Subchapter S
24 Corporation, or a limited liability company, all of which is treated as
25 owned by individuals or other entities under the federal tax laws, in
26 which the owners report their share of the income, losses, and credits
27 from the entity or business on their income tax returns filed with this
28 State. For the purpose of this Division, an owner of a pass-through
29 entity is an individual or entity who is treated as an owner under the
30 federal tax laws.
- 31 (8) Qualified business venture. – A business that (i) engages primarily in
32 manufacturing, processing, warehousing, wholesaling, research and
33 development, or a service-related industry, and (ii) is registered with the
34 Secretary of State under G.S. 105-163.013.
- 35 (9) Qualified grantee business. – A business that (i) has received during the
36 preceding three years a grant or other funding from the North Carolina
37 Technological Development Authority, the North Carolina
38 Technological Development Authority, Inc., North Carolina First Flight,
39 Inc., the North Carolina Biotechnology Center, the Microelectronics
40 Center of North Carolina, the Kenan Institute for Engineering,
41 Technology and Science, or the Federal Small Business Innovation
42 Research Program, and (ii) is registered with the Secretary of State
43 under G.S. 105-163.013.

- 1 (10) Real estate-related business. – A business that is involved in or related
2 to the brokerage, selling, purchasing, leasing, operating, or managing of
3 hotels, motels, nursing homes or other lodging facilities, golf courses,
4 sports or social clubs, restaurants, storage facilities, or commercial or
5 residential lots or buildings is a real estate-related business, except that a
6 real estate-related business does not include (i) a business that purchases
7 or leases real estate from others for the purpose of providing itself with
8 facilities from which to conduct a business that is not itself a real estate-
9 related business or (ii) a business that is not otherwise a real estate-
10 related business but that leases, subleases, or otherwise provides to one
11 or more other persons a number of square feet of space which in the
12 aggregate does not exceed fifty percent (50%) of the number of square
13 feet of space occupied by the business for its other activities.
- 14 (11) Security. – A security as defined in Section 2(1) of the Securities Act of
15 1933, 15 U.S.C. § 77b(1).
- 16 (12) Selling or leasing at retail. – A business is selling or leasing at retail if
17 the business either (i) sells or leases any product or service of any nature
18 from a store or other location open to the public generally or (ii) sells or
19 leases products or services of any nature by means other than to or
20 through one or more other businesses.
- 21 (13) Service-related industry. – A business is engaged in a service-related
22 industry, whether or not it also sells a product, if it provides services to
23 customers or clients and does not as a substantial part of its business
24 engage in a business described in G.S. 105-163.013(b)(4). A business is
25 engaged as a substantial part of its business in an activity described in
26 G.S. 105-163.013(b)(4) if (i) its gross revenues derived from all
27 activities described in that subdivision exceed twenty-five percent
28 (25%) of its gross revenues in any fiscal year or (ii) it is established as
29 one of its primary purposes to engage in any activities described in that
30 subdivision, whether or not its purposes were stated in its articles of
31 incorporation or similar organization documents.
- 32 (14) Subordinated debt. – Indebtedness that (i) by its terms matures five or
33 more years after its issuance, (ii) is not secured, and (iii) is subordinated
34 to all other indebtedness of the issuer issued or to be issued to a
35 financial institution other than a financial institution described in
36 subdivisions (5)(ii) through (5)(v) of this section. Any portion of
37 indebtedness that matures earlier than five years after its issuance is not
38 subordinated debt."

39 Section 6. G.S. 105-163.1(8) is repealed.

40 Section 7. G.S. 105-164.3(15) reads as rewritten:

- 41 "(15) "Sale"Sale or selling. – The transfer of title or possession of tangible
42 personal property, conditional or otherwise, in any manner or by any
43 means whatsoever, for a consideration paid or to be paid.

1 The term includes the fabrication of tangible personal property for consumers
2 by persons engaged in business who furnish either directly or indirectly
3 the materials used in the fabrication work. The term also includes the
4 furnishing or preparing for a consideration of any tangible personal
5 property consumed on the premises of the person furnishing or
6 preparing the property or consumed at the place at which the property is
7 furnished or prepared. The term also includes a transaction in which the
8 possession of the property is transferred but the seller retains title or
9 security for the payment of the consideration.

10 If a retailer engaged in the business of selling prepared food and
11 drink for immediate or on-premises consumption also gives prepared
12 food or drink to its patrons or employees free of charge, for the purposes
13 of this Article the property given away is considered sold along with the
14 property sold. If a retailer gives an item of inventory to a customer free
15 of charge on the condition that the customer purchase similar or related
16 property, the item given away is considered sold along with the item
17 sold. In all other cases, property given away or used by any retailer or
18 wholesale merchant is not considered sold, whether or not the retailer or
19 wholesale merchant recovers its cost of the property from sales of other
20 property."

21 Section 8. G.S. 105-236(5)d. reads as rewritten:

22 "d. No double penalty. – If a penalty is assessed under subdivision
23 (6) of this section, no additional penalty for negligence shall be
24 assessed with respect to the same deficiency."

25 Section 9. G.S. 105-253(b)(3) reads as rewritten:

26 "(3) All taxes due from the corporation pursuant to the provisions of ~~Article~~
27 Articles 36C and 36D of Subchapter V of this Chapter and all taxes
28 payable under those Articles by the corporation to a supplier for
29 remittance to this State or another state."

30 Section 10. G.S. 105-330.2(a) reads as rewritten:

31 "(a) The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1)
32 shall be determined as follows:

33 (1) For a vehicle registered under the staggered system, the value shall be
34 determined annually as of January 1 preceding the date a new
35 registration is applied for or the current registration expires.

36 (2) For a vehicle newly registered under the annual system, the value shall
37 be determined as of January 1 of the year the new registration is
38 obtained. For a vehicle whose registration is renewed under the annual
39 system, the value shall be determined as of January 1 following the date
40 the registration expires.

41 If the value of a new motor vehicle cannot be determined as of the date specified
42 above, the value of that vehicle shall be determined for that year as of the date that model
43 vehicle is first offered for sale at retail in this State. The ownership, situs, and taxability

1 of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(1) shall be determined
2 annually as of the day on which a new registration is applied for or the day on which the
3 current vehicle registration is renewed, regardless of whether the registration is renewed
4 after it has expired.

5 The value of a classified motor vehicle listed pursuant to G.S. 105-330.3(a)(2) shall
6 be determined as of January 1 of the year in which the motor vehicle is required to be
7 listed pursuant to G.S. 105-330.3(a)(2). The ownership, situs, and taxability of a
8 classified motor vehicle listed or discovered pursuant to G.S. 105-330.3(a)(2) shall be
9 determined as of January 1 of the year in which the motor vehicle is required to be
10 listed."

11 Section 11. G.S. 105-449.95(a) reads as rewritten:

12 "(a) Calculation. – At the end of each calendar quarter, the Secretary must review
13 the amount of discounts each licensed distributor or licensed importer received under
14 G.S. 105-449.93(b). The Secretary must determine if the amount of discounts the
15 distributor or importer received under that subsection in each month of the quarter is less
16 than the amount the distributor or importer would have received if the distributor or
17 importer had been allowed a discount on taxable gasoline purchased by the distributor or
18 importer from a supplier during each month of the quarter under the following schedule:

<u>Amount of Gasoline Purchased</u>	<u>Percentage</u>
<u>Each Month</u>	<u>Discount</u>
First 150,000 gallons	2%
Next 100,000 gallons	1 1/2%
Amount over 250,000 gallons	1%."

24 Section 12. G.S. 105-449.105(e) reads as rewritten:

25 "(e) Refund Amount. – The amount of a refund allowed under this section is the
26 amount of excise tax paid, less the amount of any discount allowed on the fuel under G.S.
27 105-449.93."

28 Section 13. G.S. 105-449.106 reads as rewritten:

29 "**§ 105-449.106. Quarterly refunds for certain local governmental entities, nonprofit
30 organizations, and taxicabs.**

31 (a) Government and Nonprofits. – A local governmental entity or a nonprofit
32 organization listed below that purchases and uses motor fuel may receive a quarterly
33 refund, for the excise tax paid during the preceding quarter, at a rate equal to the amount
34 of the flat cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the
35 quarter for which the refund is claimed, less one cent (1¢) per gallon. Any of the
36 following entities may receive a refund under this section:

- 37 (1) A county or a municipal corporation.
- 38 (2) A private, nonprofit organization that transports passengers under
39 contract with or at the express designation of a unit of local government.
- 40 (3) A volunteer fire department.
- 41 (4) A volunteer rescue squad.
- 42 (5) A sheltered workshop recognized by the Department of Human
43 Resources.

1 An application for a refund allowed under this section must be made in accordance
2 with this Part and must be signed by the chief executive officer of the entity. The chief
3 executive officer of a nonprofit organization is the president of the organization or
4 another officer of the organization designated in the charter or bylaws of the organization.

5 (b) Taxi. – A person who purchases and uses motor fuel in a taxicab, as defined in
6 G.S. 20-87(1), while the taxicab is engaged in transporting passengers for hire, or in a bus
7 operated as part of a city transit system that is exempt from regulation by the North
8 Carolina Utilities Commission under G.S. 62-260(a)(8), may receive a quarterly refund,
9 for the excise tax paid during the preceding quarter, at a rate equal to the flat cents-per-
10 gallon rate plus the variable cents-per-gallon rate in effect during the quarter for which
11 the refund is claimed, less one cent (1¢) per gallon. An application for a refund must be
12 made in accordance with this Part."

13 Section 14. G.S. 105-449.107 reads as rewritten:

14 "**§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles with**
15 **power attachments.**

16 (a) Off-Highway. – A person who purchases and uses motor fuel for a purpose
17 other than to operate a licensed highway vehicle may receive an annual refund for the
18 excise tax the person paid on fuel used during the preceding calendar year at a rate equal
19 to the amount of the flat cents-per-gallon rate in effect during the year for which the
20 refund is claimed plus the average of the two variable cents-per-gallon rates in effect
21 during that year, less one cent (1¢) per gallon. An application for a refund allowed under
22 this section must be made in accordance with this Part.

23 (b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the
24 vehicles listed below may receive an annual refund for the amount of fuel consumed by
25 any of the following vehicles:

- 26 (1) A concrete mixing vehicle.
- 27 (2) A solid waste compacting vehicle.
- 28 (3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a
29 power takeoff to unload the feed.
- 30 (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a
31 power takeoff to unload the lime or fertilizer.
- 32 (5) A tank wagon that delivers alternative fuel, as defined in G.S. 105-
33 449.130, or motor fuel or another type of liquid fuel into storage tanks
34 and uses a power takeoff to make the delivery.

35 The refund rate shall be computed by subtracting one cent (1¢) from the combined
36 amount of the flat cents-per-gallon rate in effect during the year for which the refund is
37 claimed and the average of the two variable cents-per-gallon rates in effect during that
38 year, and multiplying the difference by thirty-three and one-third percent (33 1/3%). An
39 application for a refund allowed under this section shall be made in accordance with this
40 Part. This refund is allowed for the amount of fuel consumed by the vehicle in its mixing,
41 compacting, or unloading operations, as distinguished from propelling the vehicle, which
42 amount is considered to be one-third of the amount of fuel consumed by the vehicle."

43 Section 15. G.S. 105-449.108 reads as rewritten:

1 **"§ 105-449.108. When an application for a refund is due.**

2 (a) Annual Refunds. – An application for an annual refund of excise tax is due by
3 April 15 following the end of the calendar year for which the refund is claimed. The
4 application must state whether or not the applicant has filed a North Carolina income tax
5 return for the preceding taxable year, and must state that the applicant has paid for the
6 fuel for which a refund is claimed or that payment for the fuel has been secured to the
7 seller's satisfaction.

8 (b) Quarterly Refunds. – An application for a quarterly refund of excise tax is due
9 by the last day of the month following the end of the calendar quarter for which the
10 refund is claimed. The application must state that the applicant has paid for the fuel for
11 which a refund is claimed or that payment for the fuel has been secured to the seller's
12 satisfaction.

13 (c) Upon Application. – An application for a refund of excise tax upon application
14 under G.S. 105-449.105 is due by the last day of the month that follows the payment of
15 tax or other event that is the basis of the refund."

16 Section 16. G.S. 117-19(c), (d), and (e) are repealed.

17 Section 17. G.S. 119-15(5) reads as rewritten:

18 "(5) Kerosene supplier. – Either of the following:

19 a. A person who supplies both kerosene and motor fuel and,
20 consequently, is required to be licensed under Part 2 of Article
21 36C of Chapter 105 of the General Statutes.

22 b. A person who is not required to be licensed as a supplier under
23 Part 2 of Article 36C of Chapter 105 of the General Statutes and
24 who maintains storage facilities for kerosene to be used to fuel an
25 airplane."

26 Section 18. G.S. 119-16.2(a) reads as rewritten:

27 "(a) When Required. – A person may not engage in business as a kerosene supplier
28 unless the person is licensed under Part 2 of Article 36C of Chapter 105 of the General
29 Statutes or has a kerosene supplier license issued under this section. A kerosene
30 distributor is required to have a kerosene distributor license only if the distributor imports
31 kerosene. Other kerosene distributors may elect to have a kerosene distributor license. A
32 licensed kerosene distributor that buys kerosene from a supplier licensed under Part 2 of
33 Article 36C of Chapter 105 of the General Statutes has the right to defer payment of the
34 inspection tax until the supplier is required to remit the tax to this State or another state.
35 A licensed kerosene distributor that pays the tax due a supplier licensed under that Part
36 by the date the supplier must pay the tax to the State may deduct from the amount due a
37 discount in the amount set in G.S. 105-449.93."

38 Section 19. G.S. 159-48(c) reads as rewritten:

39 "(c) Each county is authorized to borrow money and issue its bonds under this
40 Article in evidence ~~thereof~~ of the debt for the purpose of, in the case of subdivisions (1) ~~to~~
41 ~~(4), inclusive, through (4a) of this subsection,~~ paying any capital costs of any one or more
42 of the purposes mentioned therein and, in the case of subdivision (5), ~~to finance the cost~~
43 ~~thereof~~ (5) of this subsection, to finance the cost of the purpose:

- 1 (1) Providing community college facilities, including without limitation
2 buildings, plants, and other facilities, physical and vocational
3 educational buildings and facilities, including in connection therewith
4 classrooms, laboratories, libraries, auditoriums, administrative offices,
5 student unions, dormitories, gymnasiums, athletic fields, cafeterias,
6 utility plants, and garages.
- 7 (2) Providing courthouses, including without limitation offices, meeting
8 rooms, court facilities and rooms, and detention facilities.
- 9 (3) Providing county homes for the indigent and infirm.
- 10 (4) Providing school facilities, including without limitation schoolhouses,
11 buildings, plants and other facilities, physical and vocational
12 educational buildings and facilities, including in connection therewith
13 classrooms, laboratories, libraries, auditoriums, administrative offices,
14 gymnasiums, athletic fields, lunchrooms, utility plants, garages, and
15 school buses and other necessary vehicles.
- 16 (4a) Providing improvements to subdivision and residential streets pursuant
17 to G.S. 153A-205.
- 18 (5) Providing for the octennial revaluation of real property for taxation."

19 Section 20. G.S. 159I-30(e) reads as rewritten:

20 "(e) Special obligation bonds and notes shall be special obligations of the unit of
21 local government issuing them. The principal of, and interest and any premium on,
22 special obligation bonds and notes shall be payable solely from any one or more of the
23 sources of payment authorized by this section as may be specified in the proceedings,
24 resolution, or trust agreement under which they are authorized or secured. Neither the
25 faith and credit nor the taxing power of the unit of local government are pledged for the
26 payment of the principal of, or interest or any premium on, any special obligation bonds
27 or notes, and no owner of special obligation bonds or notes has the right to compel the
28 exercise of the taxing power by the unit in connection with any default thereon. Every
29 special obligation bond and note shall recite in substance that the principal and interest
30 and any premium on ~~such~~the bond or note are payable solely from the sources of
31 payment specified in the bond order or ~~trust~~trust agreement under which it is authorized
32 or ~~secured, provided that:~~ secured. The following limitations apply to payment from the
33 specified sources:

- 34 (1) Any such use of ~~such~~these sources will not constitute a pledge of the
35 unit's taxing power; and
- 36 (2) The municipality is not obligated to pay ~~such~~the principal or interest or
37 premium except from ~~such~~these sources."

38 Section 21. This act does not affect the rights or liabilities of the State, a
39 taxpayer, or another person arising under a statute amended or repealed by this act before
40 the effective date of its amendment or repeal; nor does it affect the right to any refund or
41 credit of a tax that accrued under the amended or repealed statute before the effective
42 date of its amendment or repeal.

1 Section 22. Section 2 of this act is effective January 1, 1997, and applies to the
2 estates of decedents dying on or after that date. The remainder of this act is effective
3 when it becomes law.