

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2001**

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**HOUSE BILL 232\***  
**Committee Substitute Favorable 6/19/01**  
**Senate Finance Committee Substitute Adopted 8/23/01**

Short Title: Budget Revenue Provisions.

(Public)

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Sponsors:

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Referred to:

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February 26, 2001

A BILL TO BE ENTITLED

1  
2 AN ACT TO SET THE INSURANCE REGULATORY CHARGE, THE PUBLIC  
3 UTILITY REGULATORY FEE, AND THE ELECTRIC MEMBERSHIP  
4 CORPORATION REGULATORY FEE; TO INCREASE THE NONRESIDENT  
5 FEE FOR SEARCHING PUBLIC ARCHIVES; TO UPDATE THE REFERENCE  
6 TO THE INTERNAL REVENUE CODE; TO ACCELERATE PAYMENT OF  
7 WITHHOLDING TAXES; TO ACCELERATE PAYMENT OF SALES AND  
8 UTILITY TAXES; TO AUTHORIZE CERTAIN COUNTIES TO ACQUIRE  
9 PROPERTY FOR PUBLIC SCHOOLS; TO PROVIDE GENERAL ASSEMBLY  
10 OVERSIGHT OF AGENCY FEES; TO EXEMPT FROM FUEL TAX FUEL USED  
11 BY COMMUNITY COLLEGES; TO MAKE CLARIFYING CHANGES IN THE  
12 SUBSIDIARY DIVIDEND PROVISIONS; AND TO ACCELERATE PAYMENT  
13 OF LOCAL SALES AND USE TAX REVENUE TO LOCAL GOVERNMENTS.

14 The General Assembly of North Carolina enacts:

15 **INSURANCE REGULATORY CHARGE**

16 **SECTION 1.(a)** The percentage rate to be used in calculating the insurance  
17 regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2001  
18 calendar year.

19 **SECTION 1.(b)** This section is effective when it becomes law.

20  
21 **REGULATORY FEE FOR UTILITIES COMMISSION**

22 **SECTION 2.(a)** The percentage rate to be used in calculating the public  
23 utility regulatory fee under G.S. 62-302(b)(2) is one-tenth percent (0.1%) for each  
24 public utility's North Carolina jurisdictional revenues earned during each quarter that  
25 begins on or after July 1, 2001.

26 **SECTION 2.(b)** The electric membership corporation regulatory fee imposed  
27 under G.S. 62-302(b1) for the 2001-2002 fiscal year is two hundred thousand dollars  
28 (\$200,000).

1           **SECTION 2.(c)** This section becomes effective July 1, 2001.

2  
3           **INCREASE NONRESIDENT SEARCH FEE**

4           **SECTION 3.(a)** G.S. 121-5(d) reads as rewritten:

5           "(d) Preservation of Permanently Valuable Records. – Public records certified by  
6 the Department of Cultural Resources as being of permanent value shall be preserved in  
7 the custody of the agency in which the records are normally kept or of the North  
8 Carolina State Archives. Any State, county, municipal, or other public official is hereby  
9 authorized and empowered to turn over to the Department of Cultural Resources any  
10 State, county, municipal, or other public records no longer in current official use, and  
11 the Department of Cultural Resources is authorized in its discretion to accept such  
12 records, and having done so shall provide for their administration and preservation in  
13 the North Carolina State Archives. When such records have been thus surrendered,  
14 photocopies, microfilms, typescripts, or other copies of them shall be made and certified  
15 under seal of the Department, upon application of any person, which certification shall  
16 have the same force and effect as if made by the official or agency by which the records  
17 were transferred to the Department of Cultural Resources; and the Department may  
18 charge reasonable fees for ~~such~~ these copies. The Department may answer written  
19 inquiries for nonresidents of ~~North Carolina the State~~ and for ~~such~~ this service may  
20 charge a search and handling fee not to exceed ~~ten dollars (\$10.00), twenty-five dollars~~  
21 (\$25.00). ~~the~~ The receipts from ~~which~~ this fee shall be used to defray the cost of  
22 providing ~~such~~ this service."

23           **SECTION 3.(b)** This section becomes effective January 1, 2002.

24  
25           **UPDATE INTERNAL REVENUE CODE REFERENCE**

26           **SECTION 4.(a)** G.S. 105-228.90(b)(1b) reads as rewritten:

27           "(b) Definitions. – The following definitions apply in this Article:

28           ...

29           (1b) Code. – The Internal Revenue Code as enacted as of January 1,  
30           2000,2001, including any provisions enacted as of that date which  
31           become effective either before or after that date."

32           **SECTION 4.(b)** G.S. 105-130.5(a)(13) is repealed.

33           **SECTION 4.(c)** Notwithstanding subsection (a) of this section, any  
34 amendments to the Internal Revenue Code enacted in 2000 that increase North Carolina  
35 taxable income for the 2000 taxable year become effective for taxable years beginning  
36 on or after January 1, 2001.

37           **SECTION 4.(d)** Subsection (b) of this section is effective for taxable years  
38 beginning on or after January 1, 2002. The remainder of this section is effective for  
39 taxable years beginning on or after January 1, 2001.

40  
41           **ACCELERATE PAYMENT OF WITHHOLDING TAXES**

42           **SECTION 5.(a)** G.S. 105-163.6(b) reads as rewritten:

1       (b) Quarterly. – An employer who withholds an average of less than ~~five~~one  
2 hundred dollars (~~\$500.00~~)(\$100.00) of State income taxes from wages each month ~~shall~~  
3 must file a return and pay the withheld taxes on a quarterly basis. A quarterly return  
4 covers a calendar quarter and is due by the last day of the month following the end of  
5 the quarter."

6           **SECTION 5.(b)** G.S. 105-163.6(c) reads as rewritten:

7       (c) Monthly. – An employer who withholds an average of at least ~~five~~one  
8 hundred dollars (~~\$500.00~~)(\$100.00) but less than two thousand dollars (\$2,000) from  
9 wages each month ~~shall~~must file a return and pay the withheld taxes on a monthly  
10 basis. A return for the months of January through November is due by the ~~15<sup>th</sup>~~10<sup>th</sup> day  
11 of the month following the end of the month covered by the return. A return for the  
12 month of December is due the following January 31."

13           **SECTION 5.(c)** In order to pay for its costs of postage, printing, and  
14 computer programming to implement this section, the Department of Revenue may  
15 withhold not more than seventy-five thousand dollars (\$75,000) from collections under  
16 Article 4 of Chapter 105 of the General Statutes during the 2001-2002 fiscal year.

17           **SECTION 5.(d)** Subsection (c) of this section is effective when it becomes  
18 law. The remainder of this section becomes effective January 1, 2002, and applies to  
19 payments of withheld income taxes made on or after that date.

## 20 21 **ACCELERATE PAYMENT OF SALES AND UTILITY TAXES**

22           **SECTION 6.(a)** G.S. 105-164.16, as amended by S.L. 2001-347, reads as  
23 rewritten:

### 24 **"§ 105-164.16. Returns and payment of taxes.**

25       (a) General. – Sales and use taxes are payable quarterly, monthly, or  
26 semimonthly as specified in this section. A return is due quarterly or monthly as  
27 specified in this section. A return must be filed with the Secretary on a form prescribed  
28 by the Secretary and in the manner required by the Secretary. A return must be signed  
29 by the taxpayer or the taxpayer's agent.

30       A sales tax return must state the taxpayer's gross sales for the reporting period, the  
31 amount and type of sales made in the period that are exempt from tax under G.S.  
32 105-164.13 or are elsewhere excluded from tax, the amount of tax due, and any other  
33 information required by the Secretary. A use tax return must state the ~~cost~~purchase  
34 price of tangible personal property that was purchased or received during the reporting  
35 period and is subject to tax under G.S. 105-164.6, the amount of tax due, and any other  
36 information required by the Secretary. Returns that do not contain the required  
37 information will not be accepted. When an unacceptable return is submitted, the  
38 Secretary must require a corrected return to be filed.

39       (b) Quarterly. – A taxpayer who is consistently liable for less than one hundred  
40 dollars (\$100.00) a month in State and local sales and use taxes must file a return and  
41 pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and  
42 is due by the 15<sup>th</sup> day of the month following the end of the quarter.

1 (b1) Monthly. – A taxpayer who is consistently liable for more than one hundred  
2 dollars (\$100.00) but less than ~~twenty thousand dollars (\$20,000)~~ ten thousand dollars  
3 (\$10,000) a month in State and local sales and use taxes must file a return and pay the  
4 taxes due on a monthly basis. A monthly return is due by the 15<sup>th</sup> day of the month  
5 following the calendar month covered by the return.

6 (b2) Semimonthly. – A taxpayer who is consistently liable for at least ~~twenty~~  
7 ~~thousand dollars (\$20,000)~~ ten thousand dollars (\$10,000) a month in State and local  
8 sales and use taxes must pay the tax twice a month and must file a return on a monthly  
9 basis. One semimonthly payment covers the period from the first day of the month  
10 through the 15<sup>th</sup> day of the month. The other semimonthly payment covers the period  
11 from the 16<sup>th</sup> day of the month through the last day of the month. The semimonthly  
12 payment for the period that ends on the 15<sup>th</sup> day of the month is due by the 25<sup>th</sup> day of  
13 that month. The semimonthly payment for the period that ends on the last day of the  
14 month is due by the 10<sup>th</sup> day of the following month. A

15 A return covers both semimonthly payment periods. The return is due by the 20<sup>th</sup>  
16 day of the month following the month of the payment periods covered by the return. A  
17 taxpayer is not subject to interest on or penalties for an underpayment for a  
18 semimonthly payment period if the taxpayer timely pays at least 95% of the amount due  
19 for each semimonthly payment period and includes the underpayment with the monthly  
20 return for those semimonthly payment periods.

21 (b3) Category. – The Secretary must monitor the amount of State and local sales  
22 and use taxes paid by a taxpayer or estimate the amount of taxes to be paid by a new  
23 taxpayer and must direct each taxpayer to pay tax and file returns in accordance with the  
24 appropriate schedule. In determining the amount of taxes due from a taxpayer, the  
25 Secretary must consider the total amount due from all places of business owned or  
26 operated by the same person as the amount due from that person. A taxpayer must file a  
27 return and pay tax in accordance with the Secretary's direction until notified in writing  
28 to file and pay under a different schedule.

29 ~~(e) Sales Tax on Utility Services. — Taxes levied under G.S. 105-164.4(a)(4a)~~  
30 ~~and G.S. 105-164.4(a)(4c) are payable when a return is required to be filed. A return for~~  
31 ~~these taxes is due quarterly or monthly as specified in this subsection. A utility that is~~  
32 ~~allowed to pay tax under G.S. 105-120 on a quarterly basis shall file a quarterly return.~~  
33 ~~All other utilities shall file a monthly return. A quarterly return is due by the last day of~~  
34 ~~the month following the quarter covered by the return. A monthly return is due by the~~  
35 ~~last day of the month following the month in which the taxes accrue, except the return~~  
36 ~~for taxes that accrue in May. A return for taxes that accrue in May is due by June 25.~~

37 ~~A utility that is required to file a monthly return may file an estimated return for the~~  
38 ~~first month, the second month, or both the first and second months in a quarter. A utility~~  
39 ~~is not subject to interest on or penalties for an underpayment submitted with an~~  
40 ~~estimated monthly return if the utility timely pays at least ninety five percent (95%) of~~  
41 ~~the amount due with a monthly return and includes the underpayment with the~~  
42 ~~company's return for the third month in the same quarter.~~

1 (d) **(Effective until taxable years beginning on or after January 1, 2003)** Use  
2 Tax on Out-of-State Purchases. – Use tax payable by an individual who purchases  
3 tangible personal property outside the State for a nonbusiness purpose is due on an  
4 annual basis. For an individual who is not required to file an individual income tax  
5 return under Part 2 of Article 4 of this Chapter, the annual reporting period ends on the  
6 last day of the calendar year and a use tax return is due by the following April 15. For  
7 an individual who is required to file an individual income tax return, the annual  
8 reporting period ends on the last day of the individual's income tax year, and the use tax  
9 must be paid on the income tax return as provided in G.S. 105-269.14.

10 (d) **(Effective for taxable years beginning on or after January 1, 2003)** Use  
11 Tax on Out-of-State Purchases. – Notwithstanding subsection (b), an individual who  
12 purchases tangible personal property outside the State for a nonbusiness purpose shall  
13 file a use tax return on an annual basis. The annual reporting period ends on the last day  
14 of the calendar year. The return is due by the due date, including any approved  
15 extensions, for filing the individual's income tax return."

16 **SECTION 6.(b)** G.S. 105-241(b) reads as rewritten:

17 "(b) Electronic Funds Transfer. – Payment by electronic funds transfer is required  
18 as provided in this subsection.

19 (1) Corporate estimated taxes. – A corporation that is required under the  
20 Code to pay its federal-estimated corporate income tax by electronic  
21 funds transfer must pay its State-estimated corporate income tax by  
22 electronic funds transfer as provided in G.S. 105-163.40.

23 (2) Semimonthly taxes. – A taxpayer that is required to pay tax on a  
24 semimonthly schedule must pay the tax by electronic funds transfer.

25 (3) Large tax payments. – Except as ~~provided in G.S. 105-163.40,~~  
26 otherwise provided in this subsection, the Secretary shall not require a  
27 taxpayer to pay a tax by electronic funds transfer unless, during the  
28 applicable period for that tax, the average amount of the taxpayer's  
29 required payments of the tax was at least twenty thousand dollars  
30 (\$20,000) a month. The twenty thousand dollar (\$20,000) threshold  
31 applies separately to each tax. The applicable period for a tax is a  
32 12-month period, designated by the Secretary, preceding the  
33 imposition or review of the payment requirement. The requirement  
34 that a taxpayer pay a tax by electronic funds transfer remains in effect  
35 until suspended by the Secretary. Every 12 months after requiring a  
36 taxpayer to pay a tax by electronic funds transfer, the Secretary ~~shall~~  
37 must determine whether, during the applicable period for that tax, the  
38 average amount of the taxpayer's required payments of the tax was at  
39 least twenty thousand dollars (\$20,000) a month. If it was not, the  
40 Secretary ~~shall~~must suspend the requirement that the taxpayer pay the  
41 tax by electronic funds transfer and ~~shall~~must notify the taxpayer in  
42 writing that the requirement has been suspended."

43 **SECTION 6.(c)** G.S. 105-116(b) reads as rewritten:

1       "(b) Report and Payment. – The tax imposed by this section is payable quarterly,  
2 semimonthly, or monthly or quarterly as specified in this subsection. A report-return is  
3 due quarterly.

4       A water company or public sewerage company must pay tax quarterly when filing a  
5 return. An electric power company shall pay tax monthly. A monthly tax payment is due  
6 by the last day of the month that follows the month in which the tax accrues, except the  
7 payment for tax that accrues in May. The payment for tax that accrues in May is due by  
8 June 25. A taxpayer is not subject to interest on or penalties for an underpayment of a  
9 monthly amount due if the taxpayer timely pays at least ninety five percent (95%) of the  
10 amount due and includes the underpayment with the next report the company files. must  
11 pay tax in accordance with the schedule that applies to its payments of sales and use tax  
12 under G.S. 105-164.16 and must file a return quarterly. An electric power company is  
13 not subject to interest on or penalties for an underpayment for a semimonthly or  
14 monthly payment period if the electric power company timely pays at least ninety-five  
15 percent (95%) of the amount due for each semimonthly or monthly payment period and  
16 includes the underpayment with the quarterly return for those semimonthly or monthly  
17 payment periods. A water company or a public sewerage company shall pay tax  
18 quarterly when filing a report. A

19       A quarterly report-return covers a calendar quarter and is due by the last day of the  
20 month that follows the quarter covered by the report-return. A taxpayer shall must  
21 submit a report-return on a form provided by the Secretary. The report shall return must  
22 include the taxpayer's gross receipts from all property it owned or operated during the  
23 reporting period in connection with its business taxed under this section and shall  
24 section. A taxpayer must report its gross receipts on an accrual basis. A return must  
25 contain the following information:

- 26           (1) The taxpayer's gross receipts for the reporting period from business  
27           inside and outside this State, stated separately.
- 28           (2) The taxpayer's gross receipts from commodities or services described  
29           in subsection (a) that are sold to a vendee subject to the tax levied by  
30           this section or to a joint agency established under Chapter 159B of the  
31           General Statutes or a city having an ownership share in a project  
32           established under that Chapter.
- 33           (3) The amount of and price paid by the taxpayer for commodities or  
34           services described in subsection (a) that are purchased from others  
35           engaged in business in this State and the name of each vendor.
- 36           (4) For an electric power company the entity's gross receipts from the sale  
37           within each city of the commodities and services described in  
38           subsection (a).

39       ~~A taxpayer must report its gross receipts on an accrual basis. If a taxpayer's report~~  
40 ~~does not state the taxpayer's taxable gross receipts derived within a city, the Secretary~~  
41 ~~must determine a practical method of allocating part of the taxpayer's taxable gross~~  
42 ~~receipts to the city."~~

43       **SECTION 6.(d)** G.S. 105-116(d) reads as rewritten:

1       "(d) Distribution. – Part of the taxes imposed by this section on electric power  
2 companies is distributed to cities under G.S. 105-116.1. If a taxpayer's return does not  
3 state the taxpayer's taxable gross receipts derived within a city, the Secretary must  
4 determine a practical method of allocating part of the taxpayer's taxable gross receipts to  
5 the city."

6               **SECTION 6.(e)** G.S. 105-120(b) reads as rewritten:

7       "(b) Report and Payment. – The tax imposed by this section is payable quarterly,  
8 semimonthly, or monthly in accordance with the schedule that applies to the company's  
9 payments of sales and use tax under G.S. 105-164.16, and a return is due quarterly. A  
10 company is not subject to interest on or penalties for an underpayment for a  
11 semimonthly or monthly payment period if the company timely pays at least ninety-five  
12 percent (95%) of the amount due for each semimonthly or monthly payment period and  
13 includes the underpayment with the quarterly return for those semimonthly or monthly  
14 payment periods. monthly or quarterly as specified in this subsection. A report is due  
15 quarterly. A company that is liable for an average of less than three thousand dollars  
16 (\$3,000) a month in tax imposed by this section may, with the approval of the Secretary  
17 of Revenue, pay tax quarterly when filing a report. All other companies shall pay tax  
18 monthly. A monthly tax payment is due by the last day of the month that follows the  
19 month in which the tax accrues, except the payment for tax that accrues in May. The  
20 payment for tax that accrues in May is due by June 25. A company is not subject to  
21 interest on or penalties for an underpayment of a monthly amount due if the company  
22 timely pays at least ninety five percent (95%) of the amount due and includes the  
23 underpayment with the next report the company files.

24       A quarterly report-return covers a calendar quarter and is due by the last day of the  
25 month that follows the quarter covered by the report-return. A company shall submit a  
26 report-return on a form provided by the Secretary. ~~The report shall~~ The return must state  
27 the company's gross receipts for the reporting period from providing local  
28 telecommunications service and from providing local telecommunications service  
29 within each city served. If a company's report-return does not state the company's  
30 taxable gross receipts derived within a city, the Secretary must determine a practical  
31 method of allocating part of the company's taxable gross receipts to the city. A company  
32 shall must report its gross receipts on an accrual basis."

33               **SECTION 6.(f)** G.S. 105-187.43 reads as rewritten:

34       "**§ 105-187.43. Payment of the tax.**

35       (a) Payment. – The tax imposed by this Article is payable ~~monthly~~ semimonthly  
36 to the Secretary. A monthly tax payment is due by the last day of the month that follows  
37 the month in which the tax accrues. in accordance with the schedule set in G.S. 105-  
38 164.16 for semimonthly payments of sales and use taxes. The tax imposed by this  
39 Article on piped natural gas delivered to a sales or transportation customer accrues  
40 when the gas is delivered. The tax payable on piped natural gas received by a person  
41 who has direct access to an interstate pipeline for consumption by that person accrues  
42 when the gas is received.

1 (b) Small Underpayments. – A person is not subject to interest on or penalties for  
2 an underpayment of a ~~monthly~~ semimonthly amount due if the person timely pays at  
3 least ninety-five percent (95%) of the amount due and includes the underpayment with  
4 the next return the person files.

5 (c) Return. – A return is due quarterly. A quarterly return covers a calendar  
6 quarter and is due by the last day of the month that follows the quarter covered by the  
7 return."

8 **SECTION 6.(g)** The Secretary of Revenue must review the thresholds in  
9 G.S. 105-163.6 for accelerated payment of withheld taxes to evaluate the efficiency,  
10 burden, and level of compliance under the current law. The Secretary must take steps to  
11 assure taxpayer compliance and must report the results of the study and any  
12 recommendations to the Revenue Laws Study Committee by April 1, 2002.

13 **SECTION 6.(h)** The Revenue Laws Study Committee may study the  
14 reporting requirements for electric power companies and the method by which the  
15 franchise tax on these companies is distributed to cities to determine simpler ways to  
16 achieve the goals of the current requirements and distribution method. The Committee  
17 may ask the League of Municipalities for its recommendations on this issue. The  
18 Committee may report its findings to the 2002 Regular Session of the 2001 General  
19 Assembly.

20 **SECTION 6.(i)** In order to pay for its costs of postage, printing, and  
21 computer programming to implement this section, the Department of Revenue may  
22 withhold not more than seventy-five thousand dollars (\$75,000) from collections under  
23 Article 4 of Chapter 105 of the General Statutes during the 2001-2002 fiscal year.

24 **SECTION 6.(j)** Subsection (i) of this section is effective when it becomes  
25 law. The remainder of this section becomes effective January 1, 2002, and applies to  
26 taxes levied on or after that date.

## 27 **CERTAIN COUNTIES MAY ACQUIRE PROPERTY FOR PUBLIC SCHOOLS**

28 **SECTION 7.(a)** G.S. 153A-158.1(e), as amended by S.L. 2001-76, reads as  
29 rewritten:  
30

31 "(e) Scope. – This section applies to Alamance, Alexander, Alleghany, Anson,  
32 Ashe, Avery, Bertie, Bladen, Brunswick, Burke, Cabarrus, Caldwell, Camden, Carteret,  
33 Catawba, Chatham, Cherokee, Chowan, Clay, Columbus, Craven, Cumberland,  
34 Currituck, Dare, Davidson, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin,  
35 Gaston, Gates, Graham, Greene, Guilford, Halifax, Harnett, Haywood, Henderson,  
36 Hoke, Hyde, Iredell, Jackson, Johnston, Jones, Lee, Lenoir, Lincoln, Macon, Madison,  
37 Martin, McDowell, Mecklenburg, Mitchell, Montgomery, Moore, Nash, New Hanover,  
38 Onslow, Orange, Pamlico, Pasquotank, Pender, Perquimans, Person, Pitt, Randolph,  
39 Richmond, Robeson, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly,  
40 Stokes, Surry, Transylvania, Union, Vance, Wake, Watauga, Wayne, Wilkes, ~~and~~  
41 ~~Wilson~~ Wilson, and Yadkin Counties."

42 **SECTION 7.(b)** This section is effective when it becomes law.  
43



## 1 GENERAL ASSEMBLY OVERSIGHT OF AGENCY FEES

2 SECTION 8.(a) G.S. 12-3.1 reads as rewritten:

## 3 "§ 12-3.1. Fees and charges by agencies.

4 (a) Authority. – Only the General Assembly has the power to authorize an  
5 agency to establish or increase a fee or charge for the rendering of any service or  
6 fulfilling of any duty to the public. In the construction of a statute, unless that  
7 construction would be inconsistent with the manifest intent of the General Assembly or  
8 repugnant to the context of the statute, the legislative grant of authority to an agency to  
9 make and promulgate rules shall not be construed as a grant of authority to the agency  
10 to establish by rule a fee or a charge for the rendering of any service or fulfilling of any  
11 duty to the public, unless the statute expressly provides for the grant of authority to  
12 establish a fee or charge for that specific service. Notwithstanding any other law, an  
13 agency's establishment or increase of a fee or charge shall not go into effect until one of  
14 the following conditions has been met:

15 (1) The General Assembly has enacted express authorization of the  
16 amount of the fee or charge to be established or increased and the  
17 purpose of that fee or charge.

18 (2) The General Assembly has enacted general authorization for the  
19 agency to establish or increase the fee or charge and the agency has  
20 consulted with the Joint Legislative Commission on Governmental  
21 Operations on the amount and purpose of the fee or charge to be  
22 established or increased.

23 (b) ~~For purposes of this section:~~ Definitions. – The following definitions apply in  
24 this section:

25 (1) Agency. – ~~Every "Agency" means every~~ agency, institution, board,  
26 commission, bureau, department, division, council, member of the  
27 Council of State, or officer of the legislative, executive or judicial  
28 branches of State government. ~~"Agency"~~ The term does not include  
29 counties, cities, towns, villages, other municipal corporations or  
30 political subdivisions of the State or any agencies of ~~such~~ these  
31 subdivisions, the University of North Carolina, community colleges,  
32 hospitals, county or city boards of education, other local public  
33 districts, units, or bodies of any kind, or private corporations created  
34 by act of the General Assembly.

35 (2) Rule. – ~~Every "Rule" means every~~ rule, regulation, ordinance,  
36 standard, and amendment thereto adopted by any ~~agency and includes~~  
37 agency, including rules and regulations regarding substantive matters,  
38 standards for products, procedural rules for complying with statutory  
39 or regulatory authority or requirements and executive orders of the  
40 Governor.

41 (c) Exceptions. – This section does not apply to any of the following:

42 (1) Rules establishing fees or charges to State, federal or local  
43 governmental units.

- 1 (2) A reasonable fee or charge for copying, transcripts of public hearings,  
2 State publications, or mailing a document or other item.  
3 (3) Reasonable registration fees covering the cost of a conference or  
4 workshop.  
5 (4) Reasonable user fees covering the cost of providing data processing  
6 services."

7 **SECTION 8.(b)** This section is effective when it becomes law.  
8

9 **COMMUNITY COLLEGE FUEL TAX EXEMPTION**

10 **SECTION 9.(a)** G.S. 105-449.88 reads as rewritten:

11 **"§ 105-449.88. Exemptions from the excise tax.**

12 The excise tax on motor fuel does not apply to the following:

- 13 (1) Motor fuel removed, by transport truck or another means of transfer  
14 outside the terminal transfer system, from a terminal for export, if the  
15 motor fuel is removed by a licensed distributor or a licensed exporter  
16 and the supplier of the motor fuel collects tax on it at the rate of the  
17 motor fuel's destination state.  
18 (1a) Motor fuel removed by transport truck from a terminal for export if the  
19 motor fuel is removed by a licensed distributor or licensed exporter,  
20 the supplier that is the position holder for the motor fuel sells the  
21 motor fuel to another supplier as the motor fuel crosses the terminal  
22 rack, the purchasing supplier or its customer receives the motor fuel at  
23 the terminal rack for export, and the supplier that is the position holder  
24 collects tax on the motor fuel at the rate of the motor fuel's destination  
25 state.  
26 (2) Motor fuel sold to the federal government for its use.  
27 (3) Motor fuel sold to the State for its use.  
28 (4) Motor fuel sold to a local board of education for use in the public  
29 school system.  
30 (5) Diesel that is kerosene and is sold to an airport.  
31 (6) Motor fuel sold to a charter school for use for charter school purposes.  
32 (7) Motor fuel sold to a community college for use for community college  
33 purposes."

34 **SECTION 9.(b)** G.S. 115D-5 is amended by adding a new subsection to  
35 read:

36 "(n) The North Carolina Community Colleges System Office shall provide the  
37 Department of Revenue with a list of all community colleges, including name, address,  
38 and other identifying information requested by the Department of Revenue. The North  
39 Carolina Community Colleges System Office shall update this list whenever there is a  
40 change."

41 **SECTION 9.(c)** This section becomes effective January 1, 2002.  
42

43 **INCREASE BUTNER TAXES**

1           **SECTION 10.(a)** Section 1 of Chapter 830 of the 1983 Session Laws reads  
2 as rewritten:

3           "Section 1. (a) The territorial jurisdiction of the Butner Police and Fire Protection  
4 District shall include: (i) any property formerly a part of the original Camp Butner  
5 reservation, including both those areas currently owned and occupied by the State and  
6 its agencies and those which may have been leased or otherwise disposed of by the  
7 State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County  
8 adjoining the Butner reservation and the Lyons Station Sanitary District situated north  
9 and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those  
10 roads and the boundaries of said reservation and said sanitary district.

11           (b) The territorial jurisdiction set forth in subsection (a) of this section shall  
12 constitute the Butner Fire and Police Protection District. The tax collectors of Durham  
13 and Granville Counties shall annually collect ~~beginning with fiscal year 1983-84~~ a tax  
14 of ~~twenty cents (20¢)~~ thirty cents (30¢) per one hundred dollars (\$100.00) valuation of  
15 all real and personal property in the portions of said district in their respective counties  
16 from year to year which tax shall be collected as county taxes are collected and shall  
17 remit the same to the State Treasurer for deposit in the General Fund."

18           **SECTION 10.(b)** Subsection (a) of this section is effective for taxes  
19 imposed for taxable years beginning on or after July 1, 2001.

20           **SECTION 10.(c)** Section 1 of Chapter 830 of the 1983 Session Laws, as  
21 amended by subsection (a) of this section, reads as rewritten:

22           "Section 1. (a) The territorial jurisdiction of the Butner Police and Fire Protection  
23 District shall include: (i) any property formerly a part of the original Camp Butner  
24 reservation, including both those areas currently owned and occupied by the State and  
25 its agencies and those which may have been leased or otherwise disposed of by the  
26 State; (ii) the Lyons Station Sanitary District; and (iii) that part of Granville County  
27 adjoining the Butner reservation and the Lyons Station Sanitary District situated north  
28 and west of the intersection of Rural Paved Roads 1103 and 1106 and bounded by those  
29 roads and the boundaries of said reservation and said sanitary district.

30           (b) The territorial jurisdiction set forth in subsection (a) of this section shall  
31 constitute the Butner Fire and Police Protection District. The tax collectors of Durham  
32 and Granville Counties shall annually collect a tax of ~~thirty cents (30¢)~~ forty cents (40¢)  
33 per one hundred dollars (\$100.00) valuation of all real and personal property in the  
34 portions of said district in their respective counties from year to year which tax shall be  
35 collected as county taxes are collected and shall remit the same to the State Treasurer  
36 for deposit in the General Fund."

37           **SECTION 10.(d)** Subsection (c) of this section is effective for taxes  
38 imposed for taxable years beginning on or after July 1, 2002.

39  
40 **CLARIFYING CHANGES IN THE SUBSIDIARY DIVIDEND PROVISIONS**

41           **SECTION 11.(a)** G.S. 105-130.5(b)(3a) and (3b), as enacted by S.L.  
42 2001-327, reads as rewritten:

1       "(b) The following deductions from federal taxable income shall be made in  
2 determining State net income:

3       ...

4       (3a) Dividends treated as received from sources outside the United States  
5 as determined under section 862 of the Code, net of related expenses,  
6 to the extent included in federal taxable income.

7       (3b) Any amount included in federal taxable income under section 78 or  
8 section 951 of the ~~Code~~. Code, net of related expenses."

9       **SECTION 11.(b)** This section is effective for taxable years beginning on or  
10 after January 1, 2001. Notwithstanding G.S. 105-163.41, no addition to tax may be  
11 made under that statute for a taxable year beginning on or after January 1, 2001, and  
12 before January 1, 2002, with respect to an underpayment of corporation income tax to  
13 the extent the underpayment was created or increased by this section.

## 14 15 **ACCELERATE PAYMENT OF LOCAL SALES AND USE TAX REVENUE TO** 16 **LOCAL GOVERNMENTS**

17       **SECTION 12.(a)** G.S. 105-472(a) reads as rewritten:

18 **"§ 105-472. Disposition and distribution of taxes collected.**

19       (a) County Allocation. – The Secretary shall, on a ~~quarterly~~-monthly basis,  
20 allocate to each taxing county for which the Secretary collects the tax the net proceeds  
21 of the tax collected in that county under this Article. For the purpose of this section, "net  
22 proceeds" means the gross proceeds of the tax collected in each county under this  
23 Article less taxes refunded, the cost to the State of collecting and administering the tax  
24 in the county as determined by the Secretary, and other deductions that may be charged  
25 to the county. If the Secretary collects local sales or use taxes in a month and the taxes  
26 cannot be identified as being attributable to a particular taxing county, the Secretary  
27 shall allocate the taxes among the taxing counties in proportion to the amount of taxes  
28 collected in each county under this Article during that month and shall include them in  
29 the ~~quarterly~~-monthly distribution.

30       (b) Distribution Between Counties and Cities. – The Secretary shall divide the  
31 amount allocated to each taxing county among the county and its municipalities in  
32 accordance with the method determined by the county. The board of county  
33 commissioners shall, by resolution, choose one of the following methods of distribution:

34       (1) Per Capita Method. – The net proceeds of the tax collected in a taxing  
35 county shall be distributed to that county and to the municipalities in  
36 the county on a per capita basis according to the total population of the  
37 taxing county, plus the total population of the municipalities in the  
38 county. In the case of a municipality located in more than one county,  
39 only that part of its population living in the taxing county is considered  
40 its "total population". In order to make the distribution, the Secretary  
41 shall determine a per capita figure by dividing the amount allocated to  
42 each taxing county by the total population of that county plus the total  
43 population of all municipalities in the county. The Secretary shall then

1 multiply this per capita figure by the population of the taxing county  
2 and by the population of each municipality in the county; each  
3 respective product shall be the amount to be distributed to the county  
4 and to each municipality in the county. To determine the population of  
5 each county and each municipality, the Secretary shall use the most  
6 recent annual estimate of population certified by the State Planning  
7 Officer.

- 8 (2) Ad Valorem Method. – The net proceeds of the tax collected in a  
9 taxing county shall be distributed to that county and the municipalities  
10 in the county in proportion to the total amount of ad valorem taxes  
11 levied by each on property having a tax situs in the taxing county  
12 during the fiscal year next preceding the distribution. For purposes of  
13 this section, the amount of the ad valorem taxes levied by a county or  
14 municipality includes ad valorem taxes levied by the county or  
15 municipality in behalf of a taxing district and collected by the county  
16 or municipality. In addition, the amount of taxes levied by a county  
17 includes ad valorem taxes levied by a merged school administrative  
18 unit described in G.S. 115C-513 in the part of the unit located in the  
19 county. In computing the amount of tax proceeds to be distributed to  
20 each county and municipality, the amount of any ad valorem taxes  
21 levied but not substantially collected shall be ignored. Each county and  
22 municipality receiving a distribution of the proceeds of the tax levied  
23 under this Article shall in turn immediately share the proceeds with  
24 each district in behalf of which the county or municipality levied ad  
25 valorem taxes in the proportion that the district levy bears to the total  
26 levy of the county or municipality. Any county or municipality that  
27 fails to provide the Department of Revenue with information  
28 concerning ad valorem taxes levied by it adequate to permit a timely  
29 determination of its appropriate share of tax proceeds collected under  
30 this Article may be excluded by the Secretary from each ~~quarterly~~  
31 monthly distribution with respect to which the information was not  
32 provided in a timely manner, and those tax proceeds shall then be  
33 distributed only to the remaining counties or municipalities, as  
34 appropriate. For the purpose of computing the distribution of the tax  
35 under this subsection to any county and the municipalities located in  
36 the county for any ~~quarter-month~~ with respect to which the property  
37 valuation of a public service company is the subject of an appeal and  
38 the Department of Revenue is restrained by law from certifying the  
39 valuation to the county and the municipalities in the county, the  
40 Department shall use the last property valuation of the public service  
41 company that has been certified.

42 The board of county commissioners in each taxing county shall, by resolution  
43 adopted during the month of April of each year, determine which of the two foregoing

1 methods of distribution shall be in effect in the county during the next succeeding fiscal  
2 year. In order for the resolution to be effective, a certified copy of it must be delivered  
3 to the Secretary in Raleigh within 15 calendar days after its adoption. If the board fails  
4 to adopt a resolution choosing a method of distribution not then in effect in the county,  
5 or if a certified copy of the resolution is not timely delivered to the Secretary, the  
6 method of distribution then in effect in the county shall continue in effect for the  
7 following fiscal year. The method of distribution in effect on the first of July of each  
8 fiscal year shall apply to every distribution made during that fiscal year.

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

11 (d) No municipality may receive any funds under this section if it was  
12 incorporated with an effective date of on or after January 1, 2000, and is disqualified  
13 from receiving funds under G.S. 136-41.2. No municipality may receive any funds  
14 under this section, incorporated with an effective date on or after January 1, 2000,  
15 unless a majority of the mileage of its streets are open to the public. The previous  
16 sentence becomes effective with respect to distribution of funds on or after July 1,  
17 1999."

18 **SECTION 12.(b)** G.S. 105-486(a) reads as rewritten:

19 "(a) County Allocation. – The Secretary shall, on a ~~quarterly~~monthly basis,  
20 allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes  
21 levied under this Article to the taxing counties on a per capita basis according to the  
22 most recent annual population estimates certified to the Secretary by the State Budget  
23 Officer."

24 **SECTION 12.(c)** G.S. 105-486(c) reads as rewritten:

25 "(c) Distribution Between Counties and Cities. – The amount allocated to each  
26 taxing county shall then be divided among the county and its municipalities in  
27 accordance with the method by which the one percent (1%) sales and use taxes levied in  
28 that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session  
29 Laws are distributed. ~~If any taxes levied under this Article by a county have not been~~  
30 ~~collected in that county for a full quarter because of the levy or repeal of the taxes, the~~  
31 ~~Secretary shall distribute a pro rata share to that county for that quarter based on the~~  
32 ~~number of months the taxes were collected in that county during the quarter."~~

33 **SECTION 12.(d)** G.S. 105-501 reads as rewritten:

34 "**§ 105-501. Distribution of additional taxes.**

35 The Secretary shall, on a ~~quarterly~~monthly basis, allocate the net proceeds of the  
36 additional one-half percent (1/2%) sales and use taxes levied under this Article to the  
37 taxing counties on a per capita basis according to the most recent annual population  
38 estimates certified to the Secretary by the State Budget Officer. The Secretary shall then  
39 adjust the amount allocated to each county as provided in G.S. 105-486(b). The amount  
40 allocated to each taxing county shall then be divided among the county and the  
41 municipalities located in the county in accordance with the method by which the one  
42 percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this  
43 Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may

1 receive any funds under this section if it was incorporated with an effective date of on or  
2 after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No  
3 municipality may receive any funds under this section, incorporated with an effective  
4 date on or after January 1, 2000, unless a majority of the mileage of its streets are open  
5 to the public. The previous sentence becomes effective with respect to distribution of  
6 funds on or after July 1, 1999.

7 ~~If any taxes levied under this Article by a county have not been collected in that~~  
8 ~~county for a full quarter because of the levy or repeal of the taxes, the Secretary shall~~  
9 ~~distribute a pro rata share to that county for that quarter based on the number of months~~  
10 ~~the taxes were collected in that county during the quarter.~~

11 In determining the net proceeds of the tax to be distributed, the Secretary shall  
12 deduct from the collections to be allocated an amount equal to ~~one-fourth~~ one-twelfth  
13 of the costs during the preceding fiscal year of:

- 14 (1) The Department of Revenue in performing the duties imposed by G.S.  
15 105-275.2 and by Article 15 of this Chapter.
- 16 (2) The Property Tax Commission.
- 17 (3) The Institute of Government in operating a training program in  
18 property tax appraisal and assessment.
- 19 (4) The personnel and operations provided by the Department of State  
20 Treasurer for the Local Government Commission."

21 **SECTION 12.(e)** Section 9 of Chapter 1096 of the 1967 Session Laws, as  
22 amended, is amended as follows:

- 23 (1) By deleting the word "quarterly" each time it appears and substituting  
24 the word "monthly".
- 25 (2) By deleting the word "quarter" in the first sentence of the second  
26 paragraph and substituting the word "month".

27 **SECTION 12.(f)** G.S. 105-510(a), as enacted by Section 1 of Chapter 417 of  
28 the 1997 Session Laws, reads as rewritten:

29 "(a) Distribution. – The Secretary shall, on a ~~quarterly~~ monthly basis, allocate to  
30 each taxing county the net proceeds of the tax levied under this Article by that county.  
31 If the Secretary collects taxes under this Article in a month and the taxes cannot be  
32 identified as being attributable to a particular taxing county, the Secretary shall allocate  
33 these taxes among the taxing counties, in proportion to the amount of taxes collected in  
34 each county under this Article in that month and shall include them in the ~~quarterly~~  
35 monthly distribution.

36 The Secretary shall distribute the net proceeds of the tax levied by a county on a per  
37 capita basis among the county and the units of local government in the county that  
38 operate public transportation systems. No proceeds shall be distributed to a county that  
39 does not operate a public transportation system or to a unit of local government that  
40 does not operate a public transportation system."

41 **SECTION 12.(g)** This section becomes effective April 1, 2002, and applies to  
42 amounts collected on or after that date.