

1 addition to the refund allowed in subsection (a) of this section. This subsection is repealed for
 2 purchases made on or after ~~January 1, 2011.~~ January 1, 2013."

3 **SECTION 31.5.(d)** G.S. 105-164.14(l) reads as rewritten:

4 "(l) Aviation Fuel for Motorsports Events. – A professional motorsports racing team or
 5 a motorsports sanctioning body is allowed a refund of the sales and use tax paid by it in this
 6 State on aviation fuel that is used to travel to or from a motorsports event in this State, to travel
 7 to a motorsports event in another state from a location in this State, or to travel to this State
 8 from a motorsports event in another state. For the purposes of this subsection, a "motorsports
 9 event" includes a motorsports race, a motorsports sponsor event, and motor sports testing. A
 10 request for a refund must be in writing and must include any information and documentation
 11 the Secretary requires. A request for a refund is due within six months after the end of the
 12 State's fiscal year. Refunds applied for after the due date are barred. This subsection is repealed
 13 for purchases made on or after ~~January 1, 2011.~~ January 1, 2013."

14 **SECTION 31.5.(e)** This section is effective when it becomes law.
 15

16 **MODERNIZE SALES TAX ON ACCOMMODATIONS**

17 **SECTION 31.6.(a)** G.S. 105-164.4(a)(3) reads as rewritten:

18 **"§ 105-164.4. Tax imposed on retailers.**

19 (a) A privilege tax is imposed on a retailer at the following percentage rates of the
 20 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is five and
 21 three-quarters percent (5.75%).
 22

23 ~~...~~
 24 (3) ~~Operators of hotels, motels, tourist homes, tourist camps, and similar type~~
 25 ~~businesses and persons who rent private residences and cottages to transients~~
 26 ~~are considered retailers under this Article. A tax at the general rate of tax is~~
 27 ~~levied on the gross receipts derived by these retailers from the rental of any~~
 28 ~~rooms, lodgings, or accommodations furnished to transients for a~~
 29 ~~consideration. This tax does not apply to any private residence or cottage~~
 30 ~~that is rented for less than 15 days in a calendar year or to any room,~~
 31 ~~lodging, or accommodation supplied to the same person for a period of 90 or~~
 32 ~~more continuous days.~~

33 ~~As used in this subdivision, the term "persons who rent to transients"~~
 34 ~~means (i) owners of private residences and cottages who rent to transients~~
 35 ~~and (ii) rental agents, including "real estate brokers" as defined in~~
 36 ~~G.S. 93A-2, who rent private residences and cottages to transients on behalf~~
 37 ~~of the owners. If a rental agent is liable for the tax imposed by this~~
 38 ~~subdivision, the owner is not liable. A tax at the general rate applies to the~~
 39 ~~gross receipts derived from the rental of an accommodation. The tax does~~
 40 ~~not apply to a private residence or cottage that is rented for fewer than 15~~
 41 ~~days in a calendar year or to an accommodation rented to the same person~~
 42 ~~for a period of 90 or more continuous days.~~

43 ~~Gross receipts derived from the rental of an accommodation include the~~
 44 ~~sales price of the rental of the accommodation. The sales price of the rental~~
 45 ~~of an accommodation is determined as if the rental were a rental of tangible~~
 46 ~~personal property. The sales price of the rental of an accommodation~~
 47 ~~marketed by a facilitator includes charges designated as facilitation fees and~~
 48 ~~any other charges necessary to complete the rental.~~

49 ~~A person who provides an accommodation that is offered for rent is~~
 50 ~~considered a retailer under this Article. A facilitator must report to the~~
 51 ~~retailer with whom it has a contract the sales price a consumer pays to the~~
 52 ~~facilitator for an accommodation rental marketed by the facilitator. A retailer~~
 53 ~~must notify a facilitator when an accommodation rental marketed by the~~
 54 ~~facilitator is completed and, within three business days of receiving the~~
 55 ~~notice, the facilitator must send the retailer the portion of the sales price the~~
 56 ~~facilitator owes the retailer and the tax due on the sales price. A facilitator~~
 57 ~~that does not send the retailer the tax due on the sales price is liable for the~~
 58 ~~amount of tax the facilitator fails to send. A facilitator is not liable for tax~~
 59 ~~sent to a retailer but not remitted by the retailer to the Secretary. Tax~~
~~payments received by a retailer from a facilitator are held in trust by the~~

1 retailer for remittance to the Secretary. A retailer that receives a tax payment
 2 from a facilitator must remit the amount received to the Secretary. A retailer
 3 is not liable for tax due but not received from a facilitator. The requirements
 4 imposed by this subdivision on a retailer and a facilitator are considered
 5 terms of the contract between the retailer and the facilitator.

6 A person who, by written contract, agrees to be the rental agent for the
 7 provider of an accommodation is considered a retailer under this Article and
 8 is liable for the tax imposed by this subdivision. The liability of a rental
 9 agent for the tax imposed by this subdivision relieves the provider of the
 10 accommodation from liability. A rental agent includes a real estate broker, as
 11 defined in G.S. 93A-2.

12 The following definitions apply in this subdivision:

- 13 a. Accommodation. – A hotel room, a motel room, a residence,
 14 a cottage, or a similar lodging facility for occupancy by an
 15 individual.
 16 b. Facilitator. – A person who is not a rental agent and who
 17 contracts with a provider of an accommodation to market the
 18 accommodation and to accept payment from the consumer for
 19 the accommodation."

20 **SECTION 31.6.(b)** G.S. 105-164.4B is amended by adding a new subsection to
 21 read:

22 "(e) Accommodations. – The rental of an accommodation, as defined in
 23 G.S. 105-164.4(a)(3), is sourced to the location of the accommodation."

24 **SECTION 31.6.(c)** G.S. 153A-155(c) reads as rewritten:

25 "(c) Collection. – Every operator of a business subject to a room occupancy tax shall, on
 26 and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as
 27 part of the charge for furnishing a taxable accommodation. A retailer who is required to remit
 28 to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on
 29 accommodations is required to remit a room occupancy tax to the taxing county on and after
 30 the effective date of the levy of the room occupancy tax. The room occupancy tax applies to the
 31 same gross receipts as the State sales tax on accommodations and is calculated in the same
 32 manner as that tax. A rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the
 33 same responsibility and liability under the room occupancy tax as the rental agent or facilitator
 34 has under the State sales tax on accommodations.

35 If a taxable accommodation is furnished as part of a package, the bundled transaction
 36 provisions in G.S. 105-164.4D apply in determining the sales price of the taxable
 37 accommodation. If those provisions do not address the type of package offered, the operator
 38 person offering the package may determine an allocated price for each item in the package
 39 based on a reasonable allocation of revenue that is supported by the operator's person's business
 40 records kept in the ordinary course of business and collect calculate tax on the allocated price
 41 of the taxable accommodation.

42 The tax shall be stated and charged separately from the sales records and shall be paid by
 43 the purchaser to the operator of the business. A retailer must separately state the room
 44 occupancy tax. Room occupancy taxes paid to a retailer are held in trust as trustee for and on
 45 account of the taxing county. The tax shall be added to the sales price and shall be passed on to
 46 the purchaser instead of being borne by the operator of the business.

47 The taxing county shall design, print, design and furnish to all appropriate businesses and
 48 persons in the county the necessary forms for filing returns and instructions to ensure the full
 49 collection of the tax. An operator of a business. A retailer who collects a room occupancy tax
 50 may deduct from the amount remitted to the taxing county a discount equal to the discount the
 51 State allows the operator-retailer for State sales and use tax."

52 **SECTION 31.6.(d)** G.S. 153A-155(g) reads as rewritten:

53 "(g) Applicability. – Subsection (c) of this section applies to all counties and county
 54 districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of
 55 a local act, subsection (c) supersedes that provision. The remainder of this This section applies
 56 only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret,
 57 Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie,
 58 Duplin, Durham, Forsyth, Franklin, Granville, Halifax, Haywood, Madison, Martin,
 59 McDowell, Montgomery, Nash, New Hanover, New Hanover County District U, Northampton,

1 Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan,
2 Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Vance, Washington, and Wilson
3 Counties, to Surry County District S, to Watauga County District U, to Yadkin County District
4 Y, and to the Township of Averasboro in Harnett County and the Ocracoke Township Taxing
5 District."

6 **SECTION 31.6.(e)** G.S. 160A-215(c) reads as rewritten:

7 "(c) ~~Collection. – Every operator of a business subject to a room occupancy tax shall, on~~
8 ~~and after the effective date of the levy of the tax, collect the tax. The tax shall be collected as~~
9 ~~part of the charge for furnishing a taxable accommodation. A retailer who is required to remit~~
10 ~~to the Department of Revenue the State sales tax imposed by G.S. 105-164.4(a)(3) on~~
11 ~~accommodations is required to remit a room occupancy tax to the taxing city on and after the~~
12 ~~effective date of the levy of the room occupancy tax. The room occupancy tax applies to the~~
13 ~~same gross receipts as the State sales tax on accommodations and is calculated in the same~~
14 ~~manner as that tax. A rental agent or a facilitator, as defined in G.S. 105-164.4(a)(3), has the~~
15 ~~same responsibility and liability under the room occupancy tax as the rental agent or facilitator~~
16 ~~has under the State sales tax on accommodations.~~

17 If a taxable accommodation is furnished as part of a package, the bundled transaction
18 provisions in G.S. 105-164.4D apply in determining the sales price of the taxable
19 accommodation. If those provisions do not address the type of package offered, the ~~operator~~
20 ~~person offering the package~~ may determine an allocated price for each item in the package
21 based on a reasonable allocation of revenue that is supported by the ~~operator's~~ ~~person's~~ business
22 records kept in the ordinary course of business and ~~collect~~ ~~calculate~~ tax on the allocated price
23 of the taxable accommodation.

24 ~~The tax shall be stated and charged separately from the sales records and shall be paid by~~
25 ~~the purchaser to the operator of the business. A retailer must separately state the room~~
26 ~~occupancy tax. Room occupancy taxes paid to a retailer are held in trust as trustee for and on~~
27 ~~account of the taxing city. The tax shall be added to the sales price and shall be passed on to the~~
28 ~~purchaser instead of being borne by the operator of the business.~~

29 The taxing city shall ~~design, print, design~~ and furnish to all appropriate businesses and
30 persons in the city the necessary forms for filing returns and instructions to ensure the full
31 collection of the tax. An operator of a business who collects a room occupancy tax may deduct
32 from the amount remitted to the taxing city a discount equal to the discount the State allows the
33 ~~operator-retailer~~ for State sales and use tax."

34 **SECTION 31.6.(f)** G.S. 160A-215(g) reads as rewritten:

35 "(g) Applicability. – Subsection (c) of this section applies to all cities that levy an
36 occupancy tax. To the extent subsection (c) conflicts with any provision of a local act,
37 subsection (c) supersedes that provision. The remainder of this ~~This~~ section applies only to
38 Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia,
39 Goldsboro, Greensboro, Hickory, High Point, Jacksonville, Kings Mountain, Lenoir,
40 Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville,
41 Roanoke Rapids, Salisbury, Shelby, Statesville, Washington, and Wilmington, to the Towns of
42 Ahoskie, Beech Mountain, Benson, Blowing Rock, Boiling Springs, Boone, Burgaw, Carolina
43 Beach, Carrboro, Cramerton, Dallas, Dobson, Elkin, Franklin, Jonesville, Kenly, Kure Beach,
44 Leland, McAdenville, Mooresville, Murfreesboro, North Topsail Beach, Pilot Mountain, Ranlo,
45 Selma, Smithfield, St. Pauls, Troutman, Tryon, West Jefferson, Wilkesboro, Wrightsville
46 Beach, Yadkinville, and Yanceyville, and to the municipalities in Avery and Brunswick
47 Counties."

48 **SECTION 31.6.(g)** This act becomes effective January 1, 2011, and applies to
49 gross receipts derived from the rental of an accommodation that a consumer occupies or has the
50 right to occupy on or after that date.

51 **MODERNIZE ADMISSIONS TAX AND RESTORE AMENITIES EXCLUSION**

52 **SECTION 31.7.(a)** G.S. 105-37.1 reads as rewritten:

53 **"§ 105-37.1. Dances, athletic events, shows, exhibitions, and other entertainments. Live**
54 **entertainment and ticket resales.**

55 (a) Scope. – A privilege tax is imposed on the gross receipts of a person who is engaged
56 in any of the following:

57 (1) Giving, offering, or managing a dance or an athletic contest for which an
58 admission fee in excess of fifty cents (50¢) is charged. The gross admissions
59

receipts of a person who is engaged in providing admission to live entertainment of any kind. Gross admissions receipts under this subdivision do not include charges for amenities. If charges for amenities are not separately stated on the face of an admission ticket, then the charge for admission is considered to be equal to the admission charge for a ticket to the same event that does not include amenities and is for a seat located directly in front of or closest to a seat that includes amenities.

(2) ~~Giving, offering, or managing a form of amusement or entertainment that is not taxed by another provision of this Article and for which an admission fee is charged.~~ The gross admissions receipts of a person who is engaged in the business of reselling on the Internet under G.S. 14-344.1 an admission ticket that is taxable under subdivision (1) of this subsection. If the price of an admission ticket is printed on the face of the ticket, gross receipts under this subdivision exclude the face price. If the price of an admission ticket is not printed on the face of the ticket, the tax under this subdivision applies to the difference between the amount the reseller paid for the ticket and the amount the reseller charges for the ticket.

(3) ~~Exhibiting a performance, show, or exhibition, such as a circus or dog show, that is not taxed by another provision of this Article.~~

(b) Rate and Payment. – The rate of the privilege tax imposed by this section is three percent ~~(3%) of the gross receipts from the activities described in subsection (a) of this section.~~ (3%). The tax is due when a return is due. A return is due by the 10th day after the end of each month and covers the gross receipts received during the previous month.

(c) Advance Report. – A person who owns or controls a ~~performance, show, or exhibition~~ live entertainment performance subject to the tax imposed by this section and who plans to bring the performance to this State from outside the State must file a statement with the Secretary that lists the dates, times, and places of the ~~performance, show, or exhibition.~~ performance. The statement must be filed no less than five days before the first ~~performance, show, or exhibition~~ performance in this State.

(d) Local Taxes. – Cities may levy a license tax on a person taxed under subdivision ~~(a)(1) or (a)(2)~~ (a)(1) of this section; however, the tax may not exceed twenty-five dollars (\$25.00). ~~Cities may levy a license tax on a person taxed under subdivision (a)(3) of this section; however, the tax may not exceed twenty-five dollars (\$25.00) for each day or part of a day the performance, show, or exhibition is given at each location.~~ Cities may not levy a license tax on a person taxed under subdivision (a)(2) of this section. ~~Counties~~ Counties may not levy a license tax on a person taxed under subdivision ~~(a)(1) or (a)(2)~~ (a)(1) of this section. ~~Counties may levy a license tax on a person taxed under subdivision (a)(3) to the same extent as a city.~~

SECTION 31.7.(b) G.S. 14-344.1(a) reads as rewritten:

"(a) ~~Internet Resale~~ – A person may resell an admission ticket under this section on the Internet at a price greater than the price on the face of the ticket only if all of the following conditions are met:

(1) ~~unless the~~ The venue where the event will occur prohibits has not prohibited the Internet ticket resale as provided under subsection (b) of this section.

(2) ~~To resell an admission ticket under this section, the~~ The person reselling the ticket must offer offers the ticket for resale on a Web site with a ticket guarantee that meets the requirements of subsection (c) of this section. A prospective purchaser must be directed to the guarantee before completion of the resale transaction. ~~A person who resells an admission ticket under this section acknowledges liability for the informational report required under subsection (e) of this section.~~

(3) The person reselling the ticket collects and remits to the State the privilege tax in accordance with G.S. 105-37.1."

SECTION 31.7.(c) G.S. 14-344.1(e) is repealed.

SECTION 31.7.(d) If any provision of this section is declared by a court to violate the Internet Tax Freedom Act, Pub. L. 105-277, §§ 1100-1104, as amended, or is otherwise found to be invalid, then G.S. 14-344.1 is repealed.

SECTION 31.7.(e) G.S. 105-37.1(a)(1), as amended by subsection (a) of this section, becomes effective August 1, 2010, and applies to charges for admission received on or after that date. G.S. 105-37.1(a)(2), as amended by subsection (a) of this section, becomes

1 effective January 1, 2011, and applies to admission tickets sold on or after that date. The
2 remainder of this section is effective when it becomes law.

4 GIVE TAXPAYERS NOTICE OF REVISED TAX INTERPRETATIONS

5 SECTION 31.7A.(a) G.S. 105-264(c) reads as rewritten:

6 "(c) Revised Interpretations. – This section does not prevent the Secretary from changing
7 an ~~interpretation~~interpretation, and it does not prevent a change in an interpretation from
8 applying on and after the effective date of the change. An interpretation that revises a prior
9 interpretation by expanding the scope of a tax or otherwise increasing the amount of tax due
10 may not become effective sooner than the following:

11 (1) For a tax that is payable on a monthly or quarterly basis, the first day of a
12 month that is at least 90 days after the date the revised interpretation is
13 issued.

14 (2) For a tax that is payable on an annual basis, the first day of a tax year that
15 begins after the date the revised interpretation is issued."

16 SECTION 31.7A.(b) This section is effective when it becomes law.

18 IMPROVE TAX AND DEBT COLLECTION PROCESS

19 SECTION 31.8.(a) G.S. 147-86.20(1) reads as rewritten:

20 "§ 147-86.20. Definitions.

21 The following definitions apply in this Article:

22 (1) ~~Account Receivable~~receivable. – An asset of the State reflecting a debt that
23 is owed to the State and has not been received by the State agency servicing
24 the debt. The term includes claims, damages, fees, fines, forfeitures, loans,
25 overpayments, taxes, and tuition as well as penalties, interest, and other costs
26 authorized by law. The term does not include court costs or fees assessed in
27 actions before the General Court of Justice or counsel fees and other
28 expenses of representing indigents under Article 36 of Chapter 7A of the
29 General Statutes.

30"

31 SECTION 31.8.(b) G.S. 147-86.22 reads as rewritten:

32 "§ 147-86.22. Statewide accounts receivable program.

33 (a) Program. – The State Controller shall implement a statewide accounts receivable
34 program. As part of this program, the State Controller shall do all of the following:

35 (1) Monitor the State's accounts receivable collection efforts.

36 (2) Coordinate information, systems, and procedures between State agencies to
37 maximize the collection of past-due accounts receivable.

38 (3) Adopt policies and procedures for the management and collection of
39 accounts receivable by State agencies.

40 (4) Establish procedures for writing off accounts ~~receivable and for determining~~
41 ~~when to end efforts to collect accounts receivable after they have been~~
42 ~~written off~~receivable.

43 (b) Electronic Payment. – Notwithstanding the provisions of G.S. 147-86.20 and
44 G.S. 147-86.21, this subsection applies to debts owed a community college, a local school
45 administrative unit, an area mental health, developmental disabilities, and substance abuse
46 authority, and the Administrative Office of the Courts, and to debts payable to or through the
47 office of a clerk of superior court or a magistrate, as well as to debts owed to other State
48 agencies as defined in G.S. 147-86.20.

49 The State Controller shall establish policies that allow accounts receivable to be payable
50 under certain conditions by electronic payment. These policies shall be established with the
51 concurrence of the State Treasurer. In addition, any policies that apply to debts payable to or
52 through the office of a clerk of superior court or a magistrate shall be established with the
53 concurrence of the Administrative Officer of the Courts. The Administrative Officer of the
54 Courts may also establish policies otherwise authorized by law that apply to these debts as long
55 as those policies are not inconsistent with the Controller's policies.

56 A condition of payment by electronic payment is receipt by the appropriate State agency of
57 the full amount of the account receivable owed to the State agency. A debtor who pays by
58 electronic payment may be required to pay any fee or charge associated with the use of
59 electronic payment. Fees associated with processing electronic payments may be paid out of the

Conference Report on the Continuation, Capital and Expansion Budgets

FY 10-11

Science and Technology

99 Energy Research Grants

Appropriates \$1 million to Commerce for matching funds for US Department of Energy grants to support energy research and green jobs.

\$1,000,000 NR

100 Operating Budget Reduction

Reduces the Board of Science and Technology's budget by approximately 5%.

(\$18,000) R

State Energy Office

101 Utility Training Sessions

Reduces funding for training sessions offered by the Utility Savings Initiative Program in the State Energy Office. These sessions are offered to representatives of State agencies on various energy efficiency topics. Approximately 35 fewer sessions will be held as a result of this reduction.

(\$127,657) R

Tourism, Film, and Sports Development

102 Tourism Marketing Funds

Provides funding for marketing North Carolina as a tourist destination. The Department is encouraged to use historically underutilized businesses and to support supplier diversity when expending these funds.

\$1,000,000 NR

103 Tourism Matching Grants

Eliminates 100% of funds for small matching grants for local tourism projects.

(\$129,976) R

Wanchese Seafood Industrial Park

104 Oregon Inlet Project

Eliminates funding for the Oregon Inlet Project for FY 2010-11.

(\$248,327) NR

105 Operating Budget Reduction

Reduces the Wanchese Seafood Industrial Park's operating budget by approximately 5%.

(\$10,000) R