

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 1327

Finance Committee Substitute Adopted 6/10/98

House Committee Substitute Favorable 6/24/98

Short Title: No Tax on Gas Cities.

(Public)

Sponsors:

Referred to:

May 27, 1998

A BILL TO BE ENTITLED

AN ACT TO PRESERVE THE TAX-EXEMPT STATUS FOR PIPED NATURAL GAS SOLD BY MUNICIPALITIES, TO MAKE THE TAXES ON OTHER SALES OF PIPED NATURAL GAS MORE UNIFORM, TO ADJUST THE CITIES' DISTRIBUTION OF THE TAX PROCEEDS UNTIL JUNE 30, 2000, TO DIRECT THE REVENUE LAWS STUDY COMMITTEE TO DETERMINE THE IMPACT OF THE TAX ON THE DISTRIBUTION TO CITIES, AND TO DIRECT THE UTILITIES COMMISSION TO STUDY THE ISSUE OF TRANSPORTATION RATES.

The General Assembly of North Carolina enacts:

Section 1. Chapter 105 of the General Statutes is amended by adding a new Article to read:

**"ARTICLE 5E.**

**"PIPED NATURAL GAS TAX.**

**"§ 105-187.40. Definitions.**

The definitions in G.S. 105-228.90 and the following definitions apply in this Article:

- (1) Gas city. – A city in this State that operated a piped natural gas distribution system as of July 1, 1998. These cities are Bessemer City,

1 Greenville, Kings Mountain, Lexington, Monroe, Rocky Mount,  
 2 Shelby, and Wilson.

3 (2) Local distribution company. – A natural gas company to whom the  
 4 North Carolina Utilities Commission has issued a franchise under  
 5 Chapter 62 of the General Statutes to serve an area of this State.

6 (3) Premises. – Defined in G.S. 62-110.2. When applying the definition of  
 7 premises to this Article, electric service is to be construed as piped  
 8 natural gas service.

9 (4) Sales customer. – An end-user who does not have direct access to an  
 10 interstate gas pipeline and whose piped natural gas is delivered by the  
 11 seller of the gas.

12 (5) Transportation customer. – An end-user who does not have direct access  
 13 to an interstate gas pipeline and whose piped natural gas is delivered by  
 14 a person who is not the seller of the gas.

15 **"§ 105-187.41. Tax imposed on piped natural gas.**

16 (a) Scope. – An excise tax is imposed on piped natural gas received for  
 17 consumption in this State. This tax is imposed in lieu of a sales and use tax and a  
 18 percentage gross receipts tax on piped natural gas.

19 (b) Rate. – The tax rate is set in the table below. The tax rate is based on monthly  
 20 therm volumes of piped natural gas received by the end-user of the gas. If an end-user  
 21 receives piped natural gas that is metered through two or more separate measuring  
 22 devices, the tax is calculated separately on the volume metered through each device  
 23 rather than on the total volume metered through all measuring devices, unless the devices  
 24 are located on the same premises and are part of the same billing account. In that  
 25 circumstance, the tax is calculated on the total volume metered through the two or more  
 26 separate measuring devices.

Monthly Volume of	Rate Per Therm
Therms Received	
<u>First 200</u>	<u>\$.047</u>
<u>201 to 15,000</u>	<u>.035</u>
<u>15,001 to 60,000</u>	<u>.024</u>
<u>60,001 to 500,000</u>	<u>.015</u>
<u>Over 500,000</u>	<u>.003</u>

34 (c) Gas City Exemption. – The tax imposed by this section does not apply to piped  
 35 natural gas received by a gas city for consumption by that city or to piped natural gas  
 36 delivered by a gas city to a sales or transportation customer of the gas city.

37 **"§ 105-187.42. Liability for the tax.**

38 The excise tax imposed by this section on piped natural gas is payable as follows:

39 (1) For piped natural gas delivered by a local distribution company to a  
 40 sales or transportation customer, the tax is payable by the local  
 41 distribution company.

1           (2) For piped natural gas delivered by a person who is not a local  
2 distribution company to a sales or transportation customer, the tax is  
3 payable by that person.

4           (3) For piped natural gas received by a person by means of direct access to  
5 an interstate gas pipeline for consumption by that person, the tax is  
6 payable by that person.

7 **"§ 105-187.43. Payment of the tax.**

8           (a) Monthly Return. – The tax imposed by this Article is payable monthly to the  
9 Secretary. A monthly tax payment is due by the last day of the month that follows the  
10 month in which the tax accrues. The tax imposed by this Article on piped natural gas  
11 delivered to a sales or transportation customer accrues when the gas is delivered. The tax  
12 payable on piped natural gas received by a person who has direct access to an interstate  
13 pipeline for consumption by that person accrues when the gas is received.

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

18 **"§ 105-187.44. Distribution of part of tax proceeds to cities.**

19           (a) City Information. – A monthly return filed under this Article must indicate the  
20 amount of tax attributable to the following: if a tax return does not state this information,  
21 the Secretary must determine how much of the tax proceeds are to be attributed to each  
22 city:

23                   (1) Piped natural gas delivered during the month to sales or transportation  
24 customers in each city in the State.

25                   (2) Piped natural gas received during the month in each city in the State by  
26 persons who have direct access to an interstate gas pipeline and who  
27 receive the gas for their own consumption.

28           (b) Distribution. – Within 75 days after the end of each calendar quarter, the  
29 Secretary must distribute to the cities part of the tax proceeds collected under this Article  
30 during that quarter. The amount to be distributed to a city is one-half of the amount of  
31 tax attributable to that city for that quarter under subsection (a) of this section.

32 **"§ 105-187.45. Information exchange and information returns.**

33           (a) Utilities Information. – The North Carolina Utilities Commission or the Public  
34 Staff of that Commission must give the Secretary a list of the entities that receive piped  
35 natural gas from an interstate pipeline and any other information available to the  
36 Commission that the Secretary asks for in administering the tax imposed by this Article.

37           (b) Information Return. – The Secretary may require the operator of an interstate  
38 pipeline to report the amount of piped natural gas taken from the pipeline in this State,  
39 the persons that received the gas, and the volume received by each person.

40 **"§ 105-187.46. Records and audits.**

41           (a) Records. – A person who is required to file a return under this Article must  
42 keep a record of all documents used to determine information provided in the return. The

1 records must be kept for three years after the due date of the return to which the records  
2 apply.

3 (b) Audits. – The Secretary may audit a person who is required to file a return  
4 under this Article."

5 Section 2. G.S. 105-116 reads as rewritten:

6 "**§ 105-116. Franchise or privilege tax on electric power, ~~natural gas,~~ water, and**  
7 **sewerage companies.**

8 (a) Tax. – An annual franchise or privilege tax is imposed on the following:

9 (1) An electric power company engaged in the business of furnishing  
10 electricity, electric lights, current, or power.

11 ~~(2) A natural gas company engaged in the business of furnishing piped~~  
12 ~~natural gas.~~

13 ~~(2a) A regional natural gas district created under Article 28 of Chapter 160A~~  
14 ~~of the General Statutes.~~

15 (3) A water company engaged in owning or operating a water system  
16 subject to regulation by the North Carolina Utilities Commission.

17 (4) A public sewerage company engaged in owning or operating a public  
18 sewerage system.

19 The tax on an electric power company is three and twenty-two hundredths percent  
20 (3.22%) of the company's taxable gross receipts from the business of furnishing  
21 electricity, electric lights, current, or power. ~~The tax on a natural gas company is three and~~  
22 ~~twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from the~~  
23 ~~business of furnishing piped natural gas.~~ The tax on a regional natural gas district is three  
24 and twenty-two hundredths percent (3.22%) of the district's taxable gross receipts from  
25 the furnishing of piped natural gas. The tax on a water company is four percent (4%) of  
26 the company's taxable gross receipts from owning or operating a water system subject to  
27 regulation by the North Carolina Utilities Commission. The tax on a public sewerage  
28 company is six percent (6%) of the company's taxable gross receipts from owning or  
29 operating a public sewerage company. A company's taxable gross receipts are its gross  
30 receipts from business inside the State less the amount of gross receipts from sales  
31 reported under subdivision (b)(2). A company that engages in more than one business  
32 taxed under this section shall pay tax on each business. A company is allowed a credit  
33 against the tax imposed by this section for the company's investments in certain entities  
34 in accordance with Division V of Article 4 of this Chapter.

35 (b) Report and Payment. – The tax imposed by this section is payable monthly or  
36 quarterly as specified in this subsection. A report is due quarterly. An electric power  
37 ~~company, a natural gas company, or a regional natural gas district company~~ shall pay tax  
38 monthly. A monthly tax payment is due by the last day of the month that follows the  
39 month in which the tax accrues, except the payment for tax that accrues in May. The  
40 payment for tax that accrues in May is due by June 25. A taxpayer is not subject to  
41 interest on or penalties for an underpayment of a monthly amount due if the taxpayer  
42 timely pays at least ninety-five percent (95%) of the amount due and includes the

1 underpayment with the next report the company files. A water company or a public  
2 sewerage company shall pay tax quarterly when filing a report.

3 A quarterly report covers a calendar quarter and is due by the last day of the month  
4 that follows the quarter covered by the report. A taxpayer shall submit a report on a form  
5 provided by the Secretary. The report shall include the taxpayer's gross receipts from all  
6 property it owned or operated during the reporting period in connection with its business  
7 taxed under this section and shall contain the following information:

- 8 (1) The taxpayer's gross receipts for the reporting period from business  
9 inside and outside this State, stated separately.
- 10 (2) The taxpayer's gross receipts from commodities or services described in  
11 subsection (a) that are sold to a vendee subject to the tax levied by this  
12 section or to a joint agency established under ~~G.S. Chapter 159B~~ Chapter  
13 159B of the General Statutes or a city having an ownership share in a  
14 project established under that Chapter.
- 15 (3) The amount of and price paid by the taxpayer for commodities or  
16 services described in subsection (a) that are purchased from others  
17 engaged in business in this State and the name of each vendor.
- 18 (4) For an electric power company, a natural gas company, or a regional natural  
19 gas district, company the entity's gross receipts from the sale within each  
20 city of the commodities and services described in subsection (a).

21 A taxpayer ~~shall~~ must report its gross receipts on an accrual basis. If a taxpayer's report  
22 does not state the taxpayer's taxable gross receipts derived within a city, the Secretary  
23 must determine a practical method of allocating part of the taxpayer's taxable gross  
24 receipts to the city.

25 ~~(e) Gas Special Charges. — Gross receipts of a natural gas company do not include~~  
26 ~~the following:~~

- 27 ~~(1) Special charges collected within this State by the company pursuant to~~  
28 ~~drilling and exploration surcharges approved by the North Carolina~~  
29 ~~Utilities Commission, if the surcharges are segregated from the other~~  
30 ~~receipts of the company and are devoted to drilling, exploration, and~~  
31 ~~other means to acquire additional supplies of natural gas for the account~~  
32 ~~of natural gas customers in North Carolina and the beneficial interest in~~  
33 ~~the surcharge collections is preserved for the natural gas customers~~  
34 ~~paying the surcharges under rules established by the Commission.~~
- 35 ~~(2) Natural gas expansion surcharges imposed under G.S. 62-158.~~

36 (d) Distribution. — Part of the taxes imposed by this section on electric power  
37 companies, natural gas companies, and regional natural gas districts is distributed to cities  
38 under G.S. 105-116.1.

39 (e) Local Tax. — So long as there is a distribution to cities from the tax imposed by  
40 this section, no city shall impose or collect any greater franchise, privilege or license  
41 taxes, in the aggregate, on the businesses taxed under this section, than was imposed and  
42 collected on or before January 1, 1947. ~~If any municipality shall have collected any privilege,~~  
43 ~~license or franchise tax between January 1, 1947, and April 1, 1949, in excess of the tax~~

1 collected by it prior to January 1, 1947, then upon distribution of the taxes imposed by this  
2 section to municipalities, the amount distributable to any municipality shall be credited with such  
3 excess payment.

4 (f) ~~Gas City Exemption.~~—The tax imposed by this section does not apply to the  
5 following cities that operate their own piped natural gas systems: ~~Bessemer City, Kings~~  
6 ~~Mountain, Lexington, Shelby, Greenville, Monroe, Rocky Mount, and Wilson.~~"

7 Section 3. G.S. 105-116.1 reads as rewritten:

8 "**§ 105-116.1. Distribution of gross receipts taxes to cities.**

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

10 (1) Freeze deduction. – The amount by which the percentage distribution  
11 amount of a city was required to be reduced in fiscal year 1995-96 in  
12 determining the amount to distribute to the city.

13 (2) Percentage distribution amount. – Three and nine hundredths percent  
14 (3.09%) of the gross receipts derived by an electric power ~~company, a~~  
15 ~~natural gas company, a regional natural gas district, company and a~~  
16 telephone company from sales within a city that are taxable under G.S.  
17 105-116 or G.S. 105-120.

18 (b) Distribution. – The Secretary must distribute to the cities part of the taxes  
19 collected under this Article on electric power ~~companies, natural gas companies, regional~~  
20 ~~natural gas districts, companies and telephone companies.~~ Each city's share for a calendar  
21 quarter is the percentage distribution amount for that city for that quarter minus one-  
22 fourth of the city's hold-back amount and one-fourth of the city's proportionate share of  
23 the annual cost to the Department of administering the distribution. The Secretary must  
24 make the distribution within 75 days after the end of each calendar quarter.

25 (c) Limited Hold-Harmless Adjustment. – The hold-back amount for a city that,  
26 in the 1995-96 fiscal year, received from gross receipts taxes less than ninety-five percent  
27 (95%) of the amount it received in the 1990-91 fiscal year is the amount determined by  
28 the following calculation:

29 (1) Adjust the city's 1995-96 distribution by adding the city's freeze  
30 deduction to the amount distributed to the city for that year.

31 (2) Compare the adjusted 1995-96 amount with the city's 1990-91  
32 distribution.

33 (3) If the adjusted 1995-96 amount is less than or equal to the city's 1990-  
34 91 distribution, the hold-back amount for the city is zero.

35 (4) If the adjusted 1995-96 amount is more than the city's 1990-91  
36 distribution, the hold-back amount for the city is the city's freeze  
37 deduction minus the difference between the city's 1990-91 distribution  
38 and the city's 1995-96 distribution.

39 (d) Allocation of Hold-Harmless Adjustment. – The hold-back amount for a city  
40 that, in the 1995-96 fiscal year, received from gross receipts taxes at least ninety-five  
41 percent (95%) of the amount it received in the 1990-91 fiscal year is the amount  
42 determined by the following calculation:

- 1 (1) Determine the amount by which the freeze deduction is reduced for all  
2 cities whose hold-back amount is determined under subsection (c) of  
3 this section. This amount is the total hold-harmless adjustment.  
4 (2) Determine the amount of gross receipts taxes that would be distributed  
5 for the quarter to cities whose hold-back amount is determined under  
6 this subsection if these cities received their percentage distribution  
7 amount minus one-fourth of their freeze deduction.  
8 (3) For each city included in the calculation in subdivision (2) of this  
9 subsection, determine that city's percentage share of the amount  
10 determined under that subdivision.  
11 (4) Add to the city's freeze deduction an amount equal to the city's  
12 percentage share under subdivision (3) of this subsection multiplied by  
13 the total hold-harmless adjustment."

14 Section 4. G.S. 105-164.3(25) reads as rewritten:

15 "(25) 'Utility' means an electric power ~~company, a gas company, a regional~~  
16 ~~natural gas district, company~~ or a telephone company that is subject to a  
17 privilege tax based on gross receipts under G.S. 105-116 or 105-120, a  
18 business entity that provides local, toll, or private telecommunications  
19 service as defined by G.S. ~~105-120(e)~~-105-120(e), or a municipality that  
20 sells electric power, other than a municipality whose only wholesale  
21 supplier of electric power is a federal agency and who is required by a  
22 contract with that federal agency to make payments in lieu of taxes."

23 Section 5. G.S. 105-164.4(a) reads as rewritten:

24 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the  
25 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four  
26 percent (4%).

27 (1) The general rate of tax applies to the sales price of each item or article  
28 of tangible personal property that is sold at retail and is not subject to  
29 tax under another subdivision in this section.

30 (1a) The rate of two percent (2%) applies to the sales price of each  
31 manufactured home sold at retail, including all accessories attached to  
32 the manufactured home when it is delivered to the purchaser. The  
33 maximum tax is three hundred dollars (\$300.00) per article. Each  
34 section of a manufactured home that is transported separately to the site  
35 where it is to be erected is a separate article.

36 (1b) The rate of three percent (3%) applies to the sales price of each aircraft,  
37 boat, railway car, or locomotive sold at retail, including all accessories  
38 attached to the item when it is delivered to the purchaser. The  
39 maximum tax is one thousand five hundred dollars (\$1,500) per article.

40 (1c) The rate of one percent (1%) applies to the sales price of the following  
41 articles:

- 42 a. Horses or mules by whomsoever sold.  
43 b. Semen to be used in the artificial insemination of animals.

- 1           c.       Sales of fuel, other than ~~electricity or piped natural gas, electricity,~~  
2           to farmers to be used by them for any farm purposes other than  
3           preparing food, heating ~~dwellings~~ dwellings, and other household  
4           purposes. The quantity of fuel purchased or used at any one time  
5           shall not in any manner be a determinative factor as to whether  
6           any sale or use of fuel is or is not subject to the one percent (1%)  
7           rate of tax imposed ~~herein~~ by this subdivision.
- 8           d.       Sales of fuel, other than ~~electricity or piped natural gas, electricity,~~  
9           to manufacturing industries and manufacturing plants for use in  
10          connection with the operation of such industries and plants other  
11          than sales of fuels to be used for residential heating purposes.  
12          The quantity of fuel purchased or used at any one time shall not  
13          in any manner be a determinative factor as to whether any sale or  
14          use of fuel is or is not subject to the rate of tax provided in this  
15          subdivision.
- 16          e.       Sales of fuel, other than ~~electricity or piped natural gas, electricity,~~  
17          to commercial laundries or to pressing and dry-cleaning  
18          establishments for use in machinery used in the direct  
19          performance of the laundering or the pressing and cleaning  
20          service.
- 21          f.       Sales to freezer locker plants of wrapping paper, cartons and  
22          supplies consumed directly in the operation of such plant.
- 23    (1d)   The rate of one percent (1%) applies to the sales price of the following  
24          articles. The maximum tax is eighty dollars (\$80.00) per article.
- 25          a.       Sales to a farmer of machines and machinery, and parts and  
26          accessories for these machines and machinery, for use by the  
27          farmer in the planting, cultivating, harvesting, or curing of farm  
28          crops or in the production of dairy products, eggs, or animals. A  
29          'farmer' includes a dairy operator, a poultry farmer, an egg  
30          producer, a livestock farmer, a farmer of crops, and a farmer of  
31          an aquatic species, as defined in G.S. 106-758. Items that are  
32          exempt from tax under G.S. 105-164.13(4c) are not subject to tax  
33          under this section.
- 34                The term 'machines and machinery' as used in this  
35                subdivision is defined as follows:
- 36                The term shall include all vehicular implements, designed and  
37                sold for any use defined in this subdivision, which are operated,  
38                drawn or propelled by motor or animal power, but shall not  
39                include vehicular implements which are operated wholly by  
40                hand, and shall not include any motor vehicles required to be  
41                registered under Chapter 20 of the General Statutes.
- 42                The term shall include all nonvehicular implements and  
43                mechanical devices designed and sold for any use defined in this



1 subdivision, which have moving parts, or which require the use  
2 of any motor or animal power, fuel, or electricity in their  
3 operation but shall not include nonvehicular implements which  
4 have no moving parts and are operated wholly by hand.

5 The term shall also include metal flues sold for use in curing  
6 tobacco, whether such flues are attached to handfired furnaces or  
7 used in connection with mechanical burners.

- 8 b. Sales of mill machinery or mill machinery parts and accessories  
9 to manufacturing industries and plants, and sales to contractors  
10 and subcontractors purchasing mill machinery or mill machinery  
11 parts and accessories for use by them in the performance of  
12 contracts with manufacturing industries and plants, and sales to  
13 subcontractors purchasing mill machinery or mill machinery  
14 parts and accessories for use by them in the performance of  
15 contracts with general contractors who have contracts with  
16 manufacturing industries and plants. As used in this paragraph,  
17 the term 'manufacturing industries and plants' does not include  
18 delicatessens, cafes, cafeterias, restaurants, and other similar  
19 retailers that are principally engaged in the retail sale of foods  
20 prepared by them for consumption on or off their premises.
- 21 c. Sales of central office equipment and switchboard and private  
22 branch exchange equipment to telephone companies regularly  
23 engaged in providing telephone service to subscribers on a  
24 commercial basis, and sales to these companies of prewritten  
25 computer programs used in providing telephone service to their  
26 subscribers.
- 27 d. Sales to commercial laundries or to pressing and dry cleaning  
28 establishments of machinery used in the direct performance of  
29 the laundering or the pressing and cleaning service and of parts  
30 and accessories thereto.
- 31 e. Sales to freezer locker plants of machinery used in the direct  
32 operation of said freezer locker plant and of parts and accessories  
33 thereto.
- 34 f. Sales of broadcasting equipment and parts and accessories  
35 thereto and towers to commercial radio and television companies  
36 which are under the regulation and supervision of the Federal  
37 Communications Commission.
- 38 g. Sales to farmers of bulk tobacco barns and racks and all parts and  
39 accessories thereto and similar apparatus used for the curing and  
40 drying of any farm produce.
- 41 h. Sales to farmers of grain, feed or soybean storage facilities and  
42 accessories thereto, whether or not dryers are attached, and all

- 1 similar apparatus and accessories thereto for the storage of grain,  
2 feed or soybeans.
- 3 i. Sales of containers to farmers or producers for use in the  
4 planting, producing, harvesting, curing, marketing, packaging,  
5 sale, or transporting or delivery of their products when such  
6 containers do not go with and become part of the sale of their  
7 products at wholesale or retail.
- 8 (1e) The rate of three percent (3%) applies to the sales price of each mobile  
9 classroom or mobile office sold at retail, including all accessories  
10 attached to the mobile classroom or mobile office when it is delivered to  
11 the purchaser. The maximum tax is one thousand five hundred dollars  
12 (\$1,500) per article. Each section of a mobile classroom or mobile office  
13 that is transported separately to the site where it is to be placed is a  
14 separate article.
- 15 (1f) The rate of two and eighty-three-hundredths percent (2.83%) applies to  
16 the sales price of electricity ~~and piped natural gas~~ described in this  
17 subdivision and measured by a separate meter or another separate  
18 device:
- 19 a. Sales of electricity ~~and piped natural gas~~ to farmers to be used by  
20 them for any farm purposes other than preparing food, heating  
21 dwellings, and other household purposes. The quantity of  
22 electricity or gas purchased or used at any one time shall not be a  
23 determinative factor as to whether its sale or use is or is not  
24 subject to the rate of tax provided in this subdivision.
- 25 b. Sales of electricity ~~and piped natural gas~~ to manufacturing  
26 industries and manufacturing plants for use in connection with  
27 the operation of the industries and plants other than sales of  
28 electricity ~~and gas~~ to be used for residential heating purposes. The  
29 quantity of electricity ~~or gas~~ purchased or used at any one time  
30 shall not be a determinative factor as to whether its sale or use is  
31 or is not subject to the rate of tax provided in this subdivision.
- 32 c. Sales of electricity ~~and piped natural gas~~ to commercial laundries  
33 or to pressing and dry-cleaning establishments for use in  
34 machinery used in the direct performance of the laundering or the  
35 pressing and cleaning service.
- 36 (2) The applicable percentage rate applies to the gross receipts derived from  
37 the lease or rental of tangible personal property by a person who is  
38 engaged in the business of leasing or renting tangible personal property,  
39 or is a retailer and leases or rents property of the type sold by the  
40 retailer. The applicable percentage rate is the rate and the maximum tax,  
41 if any, that applies to a sale of the property that is leased or rented. A  
42 person who leases or rents property shall also collect the tax imposed by  
43 this section on the separate retail sale of the property.

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

10           As used in this subdivision, the term 'persons who rent to transients'  
11 means (i) owners of private residences and cottages who rent to  
12 transients and (ii) rental agents, including 'real estate brokers' as defined  
13 in G.S. 93A-2, who rent private residences and cottages to transients on  
14 behalf of the owners. If a rental agent is liable for the tax imposed by  
15 this subdivision, the owner is not liable.

- 16           (4) Every person engaged in the business of operating a dry cleaning,  
17 pressing, or hat-blocking establishment, a laundry, or any similar  
18 business, engaged in the business of renting clean linen or towels or  
19 wearing apparel, or any similar business, or engaged in the business of  
20 soliciting cleaning, pressing, hat blocking, laundering or linen rental  
21 business for any of these businesses, is considered a retailer under this  
22 Article. A tax at the general rate of tax is levied on the gross receipts  
23 derived by these retailers from services rendered in engaging in any of  
24 the occupations or businesses named in this subdivision. The tax  
25 imposed by this subdivision does not apply to receipts derived from  
26 coin or token-operated washing machines, extractors, and dryers. The  
27 tax imposed by this subdivision does not apply to gross receipts derived  
28 from services performed for resale by a retailer that pays the tax on the  
29 total gross receipts derived from the services.

- 30           (4a) The rate of three percent (3%) applies to the gross receipts derived by a  
31 utility from sales of ~~electricity, piped natural gas, electricity~~ or local  
32 telecommunications service as defined by G.S. 105-120(e), other than  
33 sales of electricity ~~or piped natural gas~~ subject to tax under another  
34 subdivision in this section. ~~Gross receipts from sales of piped natural gas~~  
35 ~~shall not include natural gas expansion surcharges imposed under G.S. 62-~~  
36 ~~158.~~—A person who operates a utility is considered a retailer under this  
37 Article.

- 38           (4b) A person who sells tangible personal property at a flea market, other  
39 than the person's own household personal property, is considered a  
40 retailer under this Article. A tax at the general rate of tax is levied on  
41 the sales price of each article sold by the retailer at the flea market. A  
42 person who leases or rents space to others at a flea market may not lease  
43 or rent this space unless the retailer requesting to rent or lease the space

1 shows the license or a copy of the license required by this Article or  
2 other evidence of compliance. A person who leases or rents space at a  
3 flea market shall keep records of retailers who have leased or rented  
4 space at the flea market. As used in this subdivision, the term 'flea  
5 market' means a place where space is rented to a person for the purpose  
6 of selling tangible personal property.

7 (4c) The rate of six and one-half percent (6 1/2%) applies to the gross  
8 receipts derived from providing toll telecommunications services or  
9 private telecommunications services as defined by G.S. 105-120(e) that  
10 both originate from and terminate in the State and are not subject to the  
11 privilege tax under G.S. 105-120. Any business entity that provides  
12 these services is considered a retailer under this Article. This  
13 subdivision does not apply to telephone membership corporations as  
14 described in Chapter 117 of the General Statutes.

15 (5) **(Effective until July 1, 1998)** The rate of three percent (3%) applies to  
16 the sales price of food that is not otherwise exempt pursuant to G.S.  
17 105-164.13 but would be exempt pursuant to G.S. 105-164.13 if it were  
18 purchased with coupons issued under the Food Stamp Program, 7  
19 U.S.C. § 51.

20 (5) **(Effective July 1, 1998)** The rate of two percent (2%) applies to the  
21 sales price of food that is not otherwise exempt pursuant to G.S. 105-  
22 164.13 but would be exempt pursuant to G.S. 105-164.13 if it were  
23 purchased with coupons issued under the Food Stamp Program, 7  
24 U.S.C. § 51."

25 Section 6. G.S. 105-164.13 is amended by adding a new subdivision to read:

26 "(44) Piped natural gas. – This item is exempt because it is taxed under  
27 Article 5E of this Chapter."

28 Section 7. G.S. 105-164.20 reads as rewritten:

29 **"§ 105-164.20. Cash or accrual basis of reporting.**

30 Any retailer, except a utility, ~~taxable under this Article having both cash and credit sales~~  
31 may report ~~such~~ sales on either the cash or accrual basis of accounting upon making  
32 application to the Secretary for permission to use ~~such~~ the ~~basis of reporting under such~~  
33 ~~rules and regulations as shall be promulgated from time to time by the Secretary. Such~~  
34 ~~permission shall continue in force and effect unless revoked by the Secretary but he may grant~~  
35 ~~written permission to any such taxpayer upon application therefor to change from one basis to~~  
36 ~~another under such rules and regulations. A utility shall selected. Permission granted by the~~  
37 Secretary to report on a selected basis continues in effect until revoked by the Secretary  
38 or the taxpayer receives permission from the Secretary to change the basis selected. A  
39 utility must report its sales on an accrual basis. A sale by a utility of electricity, piped  
40 natural gas, electricity or intrastate telephone service is considered to accrue when the  
41 utility bills its customer for the sale."

42 Section 8. G.S. 105-122(d) reads as rewritten:

1       "(d) After determining the proportion of its total capital stock, surplus and  
2 undivided profits as set out in subsection (c) of this section, which amount so determined  
3 shall in no case be less than fifty-five percent (55%) of the appraised value as determined  
4 for ad valorem taxation of all the real and tangible personal property in this State of each  
5 such corporation plus the total appraised value of intangible property returned for  
6 taxation of intangible personal property as herein specified nor less than its total actual  
7 investment in tangible property in this State, every corporation taxed under this section  
8 shall annually pay to the Secretary of Revenue, at the time the report and statement are  
9 due, a franchise or privilege tax, which is hereby levied at the rate of one dollar and fifty  
10 cents (\$1.50) per one thousand dollars (\$1,000) of the total amount of capital stock,  
11 surplus and undivided profits as herein provided. The tax imposed in this section shall in  
12 no case be less than thirty-five dollars (\$35.00) and shall be for the privilege of carrying  
13 on, doing business, and/or the continuance of articles of incorporation or domestication of  
14 each such corporation in this State. Appraised value of tangible property including real  
15 estate shall be the ad valorem valuation for the calendar year next preceding the due date  
16 of the franchise tax return. Appraised value of intangible property shall be the total gross  
17 valuation required to be reported for intangible tax purposes on April 15 coincident with  
18 or next preceding the due date of the franchise tax return. The term "total actual  
19 investment in tangible property" as used in this section shall be construed to mean the  
20 total original purchase price or consideration to the reporting taxpayer of its tangible  
21 properties, including real estate, in this State plus additions and improvements thereto  
22 less reserve for depreciation as permitted for income tax purposes, and also less any  
23 indebtedness incurred and existing by virtue of the purchase of any real estate and any  
24 permanent improvements made thereon. In computing "total actual investment in tangible  
25 personal property" there shall also be deducted reserves for the entire cost of any air-  
26 cleaning device or sewage or waste treatment plant, including waste lagoons, and  
27 pollution abatement equipment purchased or constructed and installed which reduces the  
28 amount of air or water pollution resulting from the emission of air contaminants or the  
29 discharge of sewage and industrial wastes or other polluting materials or substances into  
30 the outdoor atmosphere or into streams, lakes, or rivers, upon condition that the  
31 corporation claiming such deduction shall furnish to the Secretary a certificate from the  
32 Department of Environment and Natural Resources or from a local air pollution control  
33 program for air-cleaning devices located in an area where the Environmental  
34 Management Commission has certified a local air pollution control program pursuant to  
35 G.S. 143-215.112 certifying that said Department or local air pollution control program  
36 has found as a fact that the air-cleaning device, waste treatment plant or pollution  
37 abatement equipment purchased or constructed and installed as above described has  
38 actually been constructed and installed and that such device, plant or equipment complies  
39 with the requirements of the Environmental Management Commission or local air  
40 pollution control program with respect to such devices, plants or equipment, that such  
41 device, plant or equipment is being effectively operated in accordance with the terms and  
42 conditions set forth in the permit, certificate of approval, or other document of approval  
43 issued by the Environmental Management Commission or local air pollution control

1 program and that the primary purpose thereof is to reduce air or water pollution resulting  
2 from the emission of air contaminants or the discharge of sewage and waste and not  
3 merely incidental to other purposes and functions. The cost of constructing facilities of  
4 any private or public utility built for the purpose of providing sewer service to residential  
5 and outlying areas shall be treated as deductible for the purposes of this section; the  
6 deductible liability allowed by this section shall apply only with respect to such pollution  
7 abatement plants or equipment constructed or installed on or after January 1, 1955.

8 ~~In determining the total tax payable by any corporation under this section, there shall~~  
9 ~~be allowed as a credit on such tax the amount of the credit authorized by Division V of~~  
10 ~~Article 4 of this Chapter."~~

11 Section 9. G.S. 105-122 is amended by adding a new subsection to read:

12 "(d1) Credits. – A corporation is allowed the following credits against the tax  
13 imposed by this section for a taxable year:

14 (1) The credit claimed for the taxable year under Division V of Article 4 of  
15 this Chapter.

16 (2) One-half of the amount of tax payable during the taxable year under  
17 Article 5E of this Chapter."

18 Section 10. G.S. 105-259(b)(5b) reads as rewritten:

19 "(5b) To furnish to the finance officials of a city a list of the utility taxable  
20 gross receipts ~~that were derived from sales within the city and used to~~  
21 ~~determine the city's distribution—~~ and piped natural gas tax revenues  
22 attributable to the city under G.S. 105-116.1 ~~or~~ and G.S. 105-187.44 or  
23 under former distribution under G.S. 105-116 and G.S. 105-120."

24 Section 11. G.S. 105-259(b) is amended by adding a new subdivision to read:

25 "(21) To exchange information concerning the tax on piped natural gas  
26 imposed by Article 5E of this Chapter with the North Carolina Utilities  
27 Commission or the Public Staff of that Commission."

28 Section 12. G.S. 160A-211 is amended by adding a new subsection to read:

29 "(c) Piped Gas Restriction. – A city may not levy a privilege license tax on a person  
30 who is engaged in the business of supplying piped natural gas and is subject to tax under  
31 Article 5E of Chapter 105 of the General Statutes."

32 Section 13. Notwithstanding G.S. 105-164.4 and G.S. 105-164.6, sales and use  
33 tax levied under Article 5 of Chapter 105 of the General Statutes does not apply to piped  
34 natural gas sold by a person that is not subject to franchise tax under G.S. 105-116.

35 Section 14. (a) Notwithstanding G.S. 105-187.44(b), as enacted by this act, the  
36 amount distributed to a city under G.S. 105-187.44(b) for taxes collected for each of the  
37 quarters in the fiscal year 1999-2000 may not exceed its benchmark amount until each  
38 city receives an amount equal to its benchmark amount. Each quarter, the Secretary of  
39 Revenue shall determine a city's benchmark amount and the amount it would receive  
40 under G.S. 105-187.44(b) if not for the redistribution required by this section. The  
41 Secretary shall identify those cities whose distribution amounts under G.S. 105-187.44(b)  
42 are less than their benchmark amounts and shall determine the total dollar amount of the  
43 shortfall. The Secretary shall reduce the amount to be distributed to those cities whose

1 distribution amount under G.S. 105-187.44(b) exceeds their benchmark amount by the  
2 total dollar amount of the shortfall determined for that quarter in proportion to each city's  
3 excess. However, in no event may a city's distribution amount be reduced below its  
4 benchmark amount. The Secretary will redistribute these monies to the cities whose  
5 distribution amounts under G.S. 105-187.44(b) are less than their benchmark amounts in  
6 proportion to each city's shortfall. In any quarter that a city does not have a prior year's  
7 distribution for the corresponding quarter in fiscal year 1998-99, that city is excluded  
8 from the redistribution required under this section for that quarter. In that case, the city  
9 will receive the amount it is entitled to receive under G.S. 105-187.44(b), as enacted by  
10 this act.

11 For the purposes of this subsection, the term "benchmark amount" means the  
12 amount a city received under G.S. 105-116.1 attributable to piped natural gas for the  
13 corresponding quarter during the fiscal year 1998-99.

14 (b) The Department of Revenue must calculate the amount a city received for  
15 taxes collected for each of the first three quarters in fiscal year 1998-99 under G.S. 105-  
16 116.1 that was attributable to piped natural gas. The Department must also calculate the  
17 amount each city would have received under G.S. 105-187.44(b), as enacted by this act,  
18 for taxes collected for each of the first three quarters in fiscal year 1999-2000. The  
19 Department shall give this information to the Revenue Laws Study Committee. The  
20 Revenue Laws Study Committee shall study the impact of this act on the distribution of  
21 part of the proceeds of the excise tax on piped natural gas to the cities and report its  
22 findings, and any recommendation, to the 2000 Session of the 1999 General Assembly.

23 Section 15. The Utilities Commission shall study the transportation rates  
24 charged by the local distribution companies to transport piped natural gas from the  
25 interstate pipeline to the consumer.

26 Section 16. The provisions of this act are severable. If any provision of this  
27 act is held invalid by a court of competent jurisdiction, the invalidity does not affect other  
28 provisions of the act that can be given effect without the invalid provision.

29 Section 17. Sections 1 through 12 of this act become effective July 1, 1999,  
30 and apply to piped natural gas delivered on or after that date. Section 13 of this act  
31 becomes effective July 1, 1998. The remainder of this act is effective when it becomes  
32 law.