

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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3

HOUSE BILL 399*
Committee Substitute Favorable 4/7/89
Committee Substitute #2 Favorable 5/30/89

Short Title: North Carolina Highway Trust Fund.

(Public)

Sponsors:

Referred to:

February 28, 1989

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE NORTH CAROLINA HIGHWAY TRUST FUND,
3 TO PROVIDE REVENUE FOR THE FUND, AND TO DESIGNATE HOW
4 REVENUE IN THE FUND IS TO BE USED.

5 The General Assembly of North Carolina enacts:

6 CONTENTS

- 7 I. NORTH CAROLINA HIGHWAY TRUST FUND
- 8 II. INCREASE CERTAIN VEHICLE REGISTRATION FEES AND
- 9 REPEAL ROAD TAX REGISTRATION FEE
- 10 III. HIGHWAY USE TAX
- 11 IV. MOTOR FUEL TAX INCREASE
- 12 V. EFFECTIVE DATE

13 PART I

14 HIGHWAY TRUST FUND

15 Section 1. Chapter 136 of the General Statutes is amended by adding a new
16 Article to read:

17 **“ARTICLE 14.**

18 **“NORTH CAROLINA HIGHWAY TRUST FUND.**

19 **“§ 136-175. Definitions.**

20 The following definitions apply in this Article:

- 21 (1) Intrastate System. The network of major, multi-lane arterial highways
- 22 composed of the following routes: I-26, I-40, I-77, I-85, I-95, I-240, I-

1 277, US-1, US-13, US-17, US-19, US-19E, US-23, US-29, US-52,
2 US-64, US-70, US-74, US-158, US-220, US-221, US-264, US-321,
3 US-421, US-441, NC-24, NC-68, NC-87, NC-105, NC-168, NC-194,
4 and any other route added by the Department of Transportation under
5 G.S. 136-177(a).

6 (2) Transportation Improvement Program. The schedule of major
7 transportation improvement projects required by G.S. 143B-350(f)(4).

8 (3) Trust Fund. The North Carolina Highway Trust Fund.

9 **"§ 136-176. Creation, revenue sources, and purpose of North Carolina Highway**
10 **Trust Fund.**

11 (a) A special account, designated the North Carolina Highway Trust Fund, is
12 created within the State treasury. The Trust Fund consists of funds transferred from the
13 Highway Fund under G.S. 136-182, funds deposited in the Trust Fund under G.S. 105-
14 173, and interest and income earned by the Trust Fund. Funds in the Trust Fund are
15 annually appropriated to the Department of Transportation to be allocated and used as
16 follows:

17 (1) Sixty and five hundredths percent (60.05%) to plan, design, and
18 construct the projects of the Intrastate System described in G.S. 136-
19 178.

20 (2) Twenty-four and six hundredths percent (24.06%) to plan, design, and
21 construct the urban loops described in G.S. 136-179.

22 (3) Nine and thirty-nine hundredths percent (9.39%) to supplement the
23 Transportation Improvement Program as provided in G.S. 136-180.

24 (4) Six and one-half percent (6.5%) for secondary road construction as
25 provided in G.S. 136-181.

26 (b) If funds are received under 23 U.S.C. Chapter 1, Federal-Aid Highways, for a
27 project for which funds in the Trust Fund are allocated, an amount equal to the amount
28 of federal funds received may be transferred by the Secretary of Transportation from the
29 Trust Fund to the Transportation Improvement Program for projects under that Program.

30 **"§ 136-177. Purpose of Intrastate System and timetable for System projects**
31 **funded from Trust Fund.**

32 (a) The Intrastate System is established to provide high-speed, safe travel service
33 throughout the State. It connects major population centers both inside and outside the
34 State and provides safe, convenient, through-travel for motorists. It is designed to
35 support statewide growth and development objectives and to connect to major highways
36 of adjoining states. All segments of the routes in the Intrastate System shall have at
37 least four travel lanes and, when warranted, shall have vertical separation or
38 interchanges at crossings, more than four travel lanes, or bypasses. Access to a route in
39 the Intrastate System is determined by travel service and economic considerations.

40 The Department of Transportation may add a route to the Intrastate System if the
41 route is a multi-lane route and has been designed and built to meet the construction
42 criteria of the Intrastate System projects. No funds may be expended from the Trust
43 Fund on routes added by the Department.

(b) The projects listed in G.S. 136-178 shall be a top priority of the Department of Transportation; all the projects shall be under construction by the 2000-01 fiscal year and shall be completed by the 2003-04 fiscal year. If the funds allocated from the Trust Fund for the Intrastate System are insufficient for all the projects listed in G.S. 136-178 to be under construction by the 2000-01 fiscal year, the Department of Transportation shall supplement those funds with funds allocated to the Transportation Improvement Program under G.S. 136-176(3) to ensure that all the projects are under construction by that date. If the funds allocated from the Trust Fund for the Intrastate System are insufficient for all the projects listed in G.S. 136-178 to be completed by the 2003-04 fiscal year, the Department of Transportation shall supplement those funds with funds allocated for the Transportation Improvement Program under G.S. 136-176(3) to ensure that all the projects are completed by that date.

(c) No contracts may be let for projects funded from the Trust Fund in anticipation of revenues under G.S. 143-28.1.

"§ 136-178. Projects of Intrastate System funded from Trust Fund.

Funds allocated from the Trust Fund for the Intrastate System may be used only for the following projects of the Intrastate System:

<u>Route</u>	<u>Improvements</u>	<u>Affected Counties</u>
<u>I-40</u>	<u>Widening</u>	<u>Buncombe, Haywood, Guilford, Wake, Durham</u>
<u>I-77</u>	<u>Widening</u>	<u>Mecklenburg</u>
<u>I-85</u>	<u>Widening</u>	<u>Durham, Orange, Alamance, Guilford, Cabarrus, Mecklenburg, Gaston</u>
<u>I-95</u>	<u>Widening</u>	<u>Halifax</u>
<u>US-64</u>	<u>Complete 4-laning from Raleigh to Coast (including freeway construction from I-95 to US-17)</u>	<u>Edgecombe, Pitt, Martin, Washington, Tyrrell, Dare</u>
<u>US-264</u>	<u>Complete 4-laning from US-64 to Washington (including Wilson and Greenville Bypasses) (including freeway construction from I-95 to Greenville)</u>	<u>Wilson, Greene, Pitt</u>

1	<u>US-70</u>	<u>Complete 4-laning from</u>	<u>Wake, Johnston,</u>
2		<u>Raleigh to Morehead City</u>	<u>Wayne, Lenoir,</u>
3		<u>(including Clayton,</u>	<u>Craven</u>
4		<u>Goldsboro, Kinston,</u>	
5		<u>Smithfield-Selma, and</u>	
6		<u>Havelock Bypasses)</u>	
7			
8	<u>NC-24</u>	<u>Complete 4-laning from</u>	<u>Mecklenburg,</u>
9		<u>Charlotte to Morehead</u>	<u>Cabarrus, Stanly,</u>
10		<u>City</u>	<u>Montgomery, Moore,</u>
11			<u>Harnett, Cumberland,</u>
12			<u>Sampson, Duplin,</u>
13			<u>Onslow, Carteret</u>
14			
15	<u>US-74</u>	<u>Complete 4-laning from</u>	<u>Mecklenburg, Union,</u>
16		<u>Charlotte to US-17</u>	<u>Richmond, Robeson,</u>
17		<u>(including multi-laning</u>	<u>Columbus</u>
18		<u>of Independence Blvd. in</u>	
19		<u>Charlotte, and Bypasses</u>	
20		<u>of Monroe, Rockingham,</u>	
21		<u>and Hamlet)</u>	
22			
23	<u>US-74</u>	<u>Complete 4-laning from</u>	<u>Polk, Rutherford</u>
24		<u>I-26 to I-85</u>	
25			
26	<u>US-158</u>	<u>Complete 4-laning</u>	<u>Forsyth, Guilford,</u>
27		<u>from Winston-Salem</u>	<u>Rockingham, Caswell,</u>
28		<u>to Whalebone</u>	<u>Person, Granville,</u>
29			<u>Vance, Warren,</u>
30			<u>Halifax,</u>
31			<u>Northampton, Gates,</u>
32			<u>Hertford,</u>
33			<u>Pasquotank, Camden,</u>
34			<u>Currituck, Dare</u>
35			
36		<u>New bridge over</u>	<u>Currituck</u>
37		<u>Currituck Sound</u>	
38			
39	<u>US-64</u>	<u>Complete 4-laning from</u>	<u>Davidson, Randolph,</u>
40		<u>Lexington to Raleigh</u>	<u>Chatham, Wake</u>
41			
42	<u>US-421</u>	<u>Complete 4-laning from</u>	<u>Watauga, Wilkes,</u>
43		<u>Tennessee Line to I-40</u>	<u>Yadkin</u>
44			

1	<u>US-421</u>	<u>Complete 4-laning from</u>	<u>Chatham, Lee</u>
2		<u>Greensboro to Sanford</u>	
3		<u>(including Bypass of</u>	
4		<u>Sanford)</u>	
5			
6	<u>NC-87</u>	<u>Complete 4-laning from</u>	<u>Lee, Harnett,</u>
7		<u>Sanford to US-74</u>	<u>Cumberland, Bladen,</u>
8			<u>Columbus</u>
9			
10	<u>US-13</u>	<u>Connector from I-95</u>	<u>Cumberland</u>
11		<u>to NC-87</u>	
12			
13	<u>US-19/</u>	<u>Complete 4-laning from</u>	<u>Madison, Yancey,</u>
14	<u>US-19E</u>	<u>US-23 to NC 194 in</u>	<u>Mitchell, Avery</u>
15		<u>Ingalls</u>	
16			
17	<u>NC-194</u>	<u>Complete 4-laning from</u>	<u>Avery</u>
18		<u>US-19E to US-221</u>	
19			
20	<u>US-19</u>	<u>Complete 4-laning</u>	<u>Cherokee, Macon,</u>
21			<u>Swain</u>
22			
23	<u>US-23-441</u>	<u>Complete 4-laning from</u>	<u>Macon</u>
24		<u>US-19/US-74 to Georgia</u>	
25		<u>Line</u>	
26			
27	<u>US-23</u>	<u>Complete 4-laning and</u>	<u>Madison, Buncombe</u>
28		<u>upgrading existing</u>	
29		<u>4-lanes from Tennessee</u>	
30		<u>Line to I-240</u>	
31			
32	<u>NC-105</u>	<u>Complete 4-laning from</u>	<u>Watauga, Avery</u>
33		<u>Boone to Linville</u>	
34			
35	<u>US-221</u>	<u>Complete 4-laning from</u>	<u>Avery, McDowell,</u>
36		<u>Linville to South</u>	<u>Rutherford</u>
37		<u>Carolina</u>	
38			
39	<u>US-321</u>	<u>Complete 4-laning from</u>	<u>Caldwell, Catawba,</u>
40		<u>Boone to South Carolina</u>	<u>Lincoln, Gaston</u>
41		<u>Line</u>	
42			
43	<u>US-52</u>	<u>Complete 4-laning from</u>	<u>Surry, Davidson</u>
44		<u>I-77 to Lexington</u>	

1		<u>(including new I-77</u>	
2		<u>Connector)</u>	
3			
4	<u>US-220/NC-68</u>	<u>Complete 4-laning from</u>	<u>Rockingham, Guilford</u>
5		<u>Virginia Line to I-40</u>	
6			
7	<u>US-220</u>	<u>Complete 4-laning from</u>	<u>Guilford, Randolph,</u>
8		<u>I-40 to US-1</u>	<u>Montgomery, Richmond</u>
9			
10	<u>US-1</u>	<u>Complete 4-laning from</u>	<u>Vance, Franklin,</u>
11		<u>Henderson to South</u>	<u>Wake, Chatham, Lee,</u>
12		<u>Carolina Line</u>	<u>Moore, Richmond</u>
13		<u>(including 6-laning of</u>	
14		<u>Raleigh Beltline)</u>	
15			
16	<u>US-13</u>	<u>Complete 4-laning from</u>	<u>Gates, Hertford,</u>
17		<u>Virginia Line to US-17</u>	<u>Bertie</u>
18			
19	<u>US-17</u>	<u>Complete 4-laning from</u>	<u>Camden, Pasquotank,</u>
20		<u>Virginia Line to South</u>	<u>Perquimans, Chowan,</u>
21		<u>Carolina Line (including</u>	<u>Bertie, Martin,</u>
22		<u>Washington, New Bern,</u>	<u>Beaufort, Craven,</u>
23		<u>and Jacksonville</u>	<u>Jones, Onslow,</u>
24		<u>Bypasses)</u>	<u>Pender, New Hanover,</u>
25	<u>Brunswick</u>		
26			
27	<u>NC-168</u>	<u>Complete multi-laning</u>	<u>Currituck</u>
28		<u>from Virginia Line</u>	
29		<u>to US-158</u>	

"§ 136-179. Urban loops.

Funds allocated from the Trust Fund for urban loops may be used only for the following urban loops:

<u>Loop</u>	<u>Description</u>	<u>Affected Counties</u>
<u>Charlotte Outer Loop</u>	<u>Multi-lane facility on</u>	<u>Mecklenburg</u>
<u>new location encircling</u>		
<u>City of Charlotte</u>		
<u>Raleigh Outer Loop</u>	<u>Multi-lane facility on</u>	<u>Wake</u>
<u>new location from US-1</u>		
<u>southwest of Cary</u>		
	<u>northerly to US-64 in</u>	
	<u>eastern Wake County</u>	

1			
2	<u>Greensboro Loop</u>	<u>Multi-lane facility on new</u>	<u>Guilford</u>
3	<u>location encircling City</u>		
4	<u>of Greensboro</u>		
5			
6	<u>Winston-Salem</u>	<u>Multi-lane facility on</u>	<u>Forsyth</u>
7	<u>Northbelt</u>	<u>new location from I-40 west</u>	
8		<u>of Winston-Salem northerly</u>	
9		<u>to I-40 in eastern Forsyth</u>	
10		<u>County</u>	
11			
12	<u>Durham Northern Loop</u>	<u>Multi-lane facility on new</u>	<u>Durham, Orange</u>
13	<u>location from I-85 west of</u>		
14	<u>Durham to US-70 east of</u>		
15	<u>Durham</u>		
16			
17	<u>Asheville Western</u>	<u>Multi-lane facility on new</u>	<u>Buncombe</u>
18	<u>Loop</u>	<u>location from I-26 west of</u>	
19		<u>Asheville to US-19/23</u>	
20		<u>north of Asheville</u>	
21			
22	<u>Wilmington Bypass</u>	<u>Multi-lane facility on new</u>	<u>New Hanover</u>
23		<u>location from US-17</u>	
24		<u>northeast of Wilmington</u>	
25		<u>to US-17 southwest</u>	
26		<u>of Wilmington</u>	

27 **"§ 136-180. Supplement for Transportation Improvement Program.**

28 Funds allocated to supplement the Transportation Improvement Program may be
 29 used for any purpose under that Program. Funds allocated for the Transportation
 30 Improvement Program may be required for the Intrastate State System, as provided in
 31 G.S. 136-177(b). Of the funds allocated to supplement the Transportation Improvement
 32 Program, the sum of five million dollars (\$5,000,000) may be used annually by the
 33 Department to develop economical transit alternatives to highway construction. These
 34 alternatives may include high occupancy vehicle lanes and rail routes.

35 **"§ 136-181. Supplement for secondary road construction.**

36 Funds are allocated from the Trust Fund to increase allocations for secondary road
 37 construction made under G.S. 136-44.2A so that all State-maintained unpaved
 38 secondary roads with a traffic vehicular equivalent of at least 50 vehicles a day can be
 39 paved by the 1998-99 fiscal year. This supplement shall be discontinued when the
 40 Department of Transportation certifies that, with funds available from sources other
 41 than the Trust Fund, all State-maintained unpaved secondary roads, regardless of their
 42 traffic vehicular equivalent, can be paved during the following six years. If the
 43 supplement is discontinued before the 2003-04 fiscal year, the funds that would

1 otherwise be allocated under this section shall be added to the allocation from the Trust
2 Fund for projects of the Intrastate System.

3 **"§ 136-182. Transfer of revenue from Highway Fund.**

4 Within 30 days after the end of each calendar quarter, the State Treasurer shall
5 transfer from the Highway Fund and deposit to the credit of the Trust Fund a sum equal
6 to twenty-four and seven-tenths percent (24.7%) of the net revenue credited to the
7 Highway Fund during that quarter, including interest or income earned by the Highway
8 Fund during that quarter. Beginning with the 1994-95 fiscal year, the State Treasurer
9 shall transfer additional amounts of revenue on a quarterly basis from the Highway
10 Fund to the Trust Fund in accordance with the following schedule:

<u>Fiscal Year</u>	<u>Yearly Amount To Transfer</u>
<u>1994-95</u>	<u>\$9,600,000</u>
<u>1995-96</u>	<u>12,100,000</u>
<u>1996-97</u>	<u>32,300,000</u>
<u>1997-98 through 2003-04</u>	<u>38,000,000.</u>

16 These additional amounts represent increased revenue resulting from the retirement
17 of refunding bonds issued to repay highway construction bonds. The State Treasurer
18 shall deduct the additional amounts to be credited to the Highway Fund from the net
19 revenue in the Highway Fund before determining the percentage amount to be
20 transferred to the Trust Fund.

21 **"§ 136-183. Reports by Department of Transportation.**

22 (a) The Department of Transportation shall develop, and update annually, a
23 report containing a completion schedule for all projects to be funded from the Trust
24 Fund. The report shall include a separate schedule for the Intrastate System projects,
25 the urban loop projects, and the paving of unpaved State-maintained secondary roads
26 that have a traffic vehicular equivalent of at least 50 vehicles a day. The annual update
27 shall indicate the projects, or portions thereof, that were completed during the preceding
28 fiscal year, any changes in the original completion schedules, and the reasons for the
29 changes. The Department shall submit the report and the annual updates to the Joint
30 Legislative Highway Oversight Committee.

31 (b) The Department of Transportation shall make quarterly reports to the Joint
32 Legislative Highway Oversight Committee containing any information requested by the
33 Committee. The Department shall provide the Committee with all information needed
34 to determine if funds available under the Trust Fund and the Transportation
35 Improvement Program are being spent in accordance with G.S. 136-17.2A."

36 Sec. 2. Chapter 120 of the General Statutes is amended by adding a new
37 Article to read:

38 **"ARTICLE 12E.**

39 **"JOINT LEGISLATIVE HIGHWAY OVERSIGHT COMMITTEE.**

40 **"§ 120-70.50. Creation and membership of Joint Legislative Highway Oversight**
41 **Committee.**

42 The Joint Legislative Highway Oversight Committee is established. The Committee
43 consists of 16 members as follows:

- 1 (1) Eight members of the Senate appointed by the President Pro Tempore
2 of the Senate; and
3 (2) Eight members of the House of Representatives appointed by the
4 Speaker of the House of Representatives.

5 Terms on the Committee are for two years and begin on January 15 of each odd-
6 numbered year, except the terms of the initial members, which begin on appointment.
7 Members may complete a term of service on the Committee even if they do not seek
8 reelection or are not reelected to the General Assembly, but resignation or removal from
9 service in the General Assembly constitutes resignation or removal from service on the
10 Committee.

11 A member continues to serve until his successor is appointed. A vacancy shall be
12 filled within 30 days by the officer who made the original appointment.

13 **"§ 120-70.51. Purpose and powers of Committee.**

14 (a) The Joint Legislative Highway Oversight Committee shall:

- 15 (1) Review reports prepared by the Department of Transportation under
16 G.S. 136-183.
17 (2) Monitor the funds deposited in and expenditures from the North
18 Carolina Highway Trust Fund and the Highway Fund.
19 (3) Determine whether funds in the Trust Fund are spent in accordance
20 with G.S. 136-17.2A and Article 14 of Chapter 136.
21 (4) Determine whether any revisions are needed in the funding
22 for the programs for which funds in the Trust Fund may be used to
23 meet the statutory timetable for the programs.
24 (5) Report to the General Assembly at the beginning of each regular
25 session concerning its determinations of needed changes in the funding
26 for programs funded from the Trust Fund.

27 (b) The Committee may make interim reports to the General Assembly on
28 matters for which it may report to a regular session of the General Assembly. A report
29 to the General Assembly may contain any legislation needed to implement a
30 recommendation of the Committee.

31 **"§ 120-70.52. Organization of Committee.**

32 (a) The President Pro Tempore of the Senate and the Speaker of the House of
33 Representatives shall each designate a cochair of the Joint Legislative Highway
34 Oversight Committee. The Committee shall meet at least once a quarter and may meet
35 at other times upon the joint call of the cochairs.

36 (b) A quorum of the Committee is nine members. No action may be taken except
37 by a majority vote at a meeting at which a quorum is present. While in the discharge of
38 its official duties, the Committee has the powers of a joint committee under G.S. 120-19
39 and G.S. 120-19.1 through 120-19.4.

40 (c) The Committee shall be funded by appropriations made to the Legislative
41 Services Commission. Members of the Committee receive subsistence and travel
42 expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or
43 hire employees in accordance with G.S. 120-32.02. The Legislative Services
44 Commission, through the Legislative Administrative Officer, shall assign professional

1 staff to assist the Committee in its work. Upon the direction of the Legislative Services
2 Commission, the Supervisors of Clerks of the Senate and of the House of
3 Representatives shall assign clerical staff to the Committee. The expenses for clerical
4 employees shall be borne by the Committee."

5 Sec. 3. G.S. 136-12 reads as rewritten.

6 **"§ 136-12. Reports to General Assembly--;Transportation Improvement Program**
7 **submitted to members and staff of General Assembly.**

8 (a) The Department of Transportation shall, on or before the tenth day after the
9 convening of each regular session of the General Assembly of North Carolina, make a
10 full printed, detailed report to the General Assembly, showing the construction and
11 maintenance work and the cost of the same, receipts of license fees, and disbursements
12 of the Department of Transportation, and such other data as may be of interest in
13 connection with the work of the Department of Transportation. A full account of each
14 road project shall be kept by and under the direction of the Department of
15 Transportation or its representatives, to ascertain at any time the expenditures and the
16 liabilities against all projects; also records of contracts and force account work. The
17 account records, together with all supporting documents, shall be open at all times to the
18 inspection of the Governor or road authorities of any county, or their authorized
19 representatives, and copies thereof shall be furnished such officials upon request.

20 (b) At least 30 days before it approves a Transportation Improvement Program in
21 accordance with G.S. 143B-350(f)(4), the Department shall submit the proposed
22 Transportation Improvement Program to the following members and staff of the
23 General Assembly:

24 (1) The Chairs of the House Appropriations Committee, the Highway
25 Fund Subcommittee of the House Appropriations Committee, the
26 Senate Appropriations Committee, and the Senate Base Budget
27 Committee;

28 (2) The Chairs of the Senate Transportation Committee and the Highways
29 Subcommittee of the House Infrastructure Committee;

30 (3) The Chairs of the Senate Finance Committee and the House Finance
31 Committee;

32 (4) The Speaker and the Speaker Pro Tempore of the House of
33 Representatives;

34 (5) The Lieutenant Governor and the President Pro Tempore of the
35 Senate;

36 (6) The Fiscal Research Division of the Legislative Services Commission;
37 and

38 (7) Each member of the Joint Legislative Highway Oversight Committee."

39 Sec. 4. G.S. 136-14.1 reads as rewritten:

40 **"§ 136-14.1. Highway engineering divisions.**

41 For purposes of administering the highway activities, the ~~Department of~~
42 ~~Transportation shall have authority to designate boundaries of highway engineering~~
43 ~~divisions for the proper administration of its duties~~ State is divided into 14 highway
44 engineering divisions and each county in the State is assigned to a division.

1 Division 1 consists of the following counties: Bertie, Camden, Chowan, Currituck,
2 Dare, Gates, Hertford, Hyde, Martin, Northampton, Pasquotank, Perquimans, Tyrrell,
3 and Washington.

4 Division 2 consists of the following counties: Beaufort, Carteret, Craven, Greene,
5 Jones, Lenoir, Pamlico, and Pitt.

6 Division 3 consists of the following counties: Brunswick, Duplin, New Hanover,
7 Onslow, Pender, and Sampson.

8 Division 4 consists of the following counties: Edgecombe, Halifax, Johnston, Nash,
9 Wayne, and Wilson.

10 Division 5 consists of the following counties: Durham, Franklin, Granville, Person,
11 Vance, Wake, and Warren.

12 Division 6 consists of the following counties: Bladen, Columbus, Cumberland,
13 Harnett, and Robeson.

14 Division 7 consists of the following counties: Alamance, Caswell, Guilford,
15 Orange, and Rockingham.

16 Division 8 consists of the following counties: Chatham, Hoke, Lee, Montgomery,
17 Moore, Randolph, Richmond, and Scotland.

18 Division 9 consists of the following counties: Davidson, Davie, Forsyth, Rowan,
19 and Stokes.

20 Division 10 consists of the following counties: Anson, Cabarrus, Mecklenburg,
21 Stanly, and Union.

22 Division 11 consists of the following counties: Alleghany, Ashe, Avery, Caldwell,
23 Surry, Watauga, Wilkes, and Yadkin.

24 Division 12 consists of the following counties: Alexander, Catawba, Cleveland,
25 Gaston, Iredell, and Lincoln.

26 Division 13 consists of the following counties: Buncombe, Burke, Madison,
27 McDowell, Mitchell, Rutherford, and Yancey.

28 Division 14 consists of the following counties: Cherokee, Clay, Graham, Haywood,
29 Henderson, Jackson, Macon, Polk, Swain, and Transylvania."

30 Sec. 5. Article 2 of Chapter 136 of the General Statutes is amended by
31 adding a new section to read:

32 **"§ 136-17.2A. Distribution formula for funds expended on Intrastate System and**
33 **Transportation Improvement Program.**

34 (a) Funds expended for the Intrastate System projects listed in G.S. 136-178 and
35 both State and federal-aid funds expended under the Transportation Improvement
36 Program, other than funds expended on an urban loop project listed in G.S. 136-179,
37 shall be distributed throughout the State in accordance with this section. For purposes
38 of this distribution, the 14 highway engineering divisions are grouped into seven
39 distribution regions as follows:

40 (1) Distribution Region A consists of Highway Divisions 1 and 4.

41 (2) Distribution Region B consists of Highway Divisions 2 and 3.

42 (3) Distribution Region C consists of Highway Divisions 5 and 6.

43 (4) Distribution Region D consists of Highway Divisions 7 and 9.

44 (5) Distribution Region E consists of Highway Divisions 8 and 10.

1 (6) Distribution Region F consists of Highway Divisions 11 and 12.

2 (7) Distribution Region G consists of Highway Divisions 13 and 14.

3 (b) Until ninety percent (90%) of the Intrastate System projects are completed,
4 the Secretary of Transportation shall, on or before October 1 of each year, calculate the
5 estimated amount of funds subject to this section that will be available for the next
6 seven program years beginning that October 1. The Secretary shall then calculate a
7 tentative percentage share for each distribution region by multiplying the total estimated
8 amount by a factor that is based:

9 (1) Twenty-five percent (25%) on the percentage proportion that the
10 estimated number of miles to complete the Intrastate System projects
11 in that region bears to the estimated number of miles to complete the
12 Intrastate System in the State;

13 (2) Fifty percent (50%) on the percentage proportion that the estimated
14 population of the region bears to the estimated population of the State;
15 and

16 (3) Twenty-five percent (25%) on the fraction one-seventh, which
17 provides an equal share based on the number of distribution regions.

18 (c) When ninety percent (90%) of the Intrastate System projects are completed,
19 the Secretary of Transportation shall, on or before October 1 of each year, calculate the
20 estimated amount of funds subject to this section that will be available for the next
21 seven program years beginning that October 1. The Secretary shall then calculate a
22 tentative percentage share for each distribution region by multiplying the total estimated
23 amount by a factor that is based:

24 (1) Sixty-six percent (66%) on the percentage proportion that the
25 estimated population of the region bears to the estimated population of
26 the State; and

27 (2) Thirty-four percent (34%) on the fraction one-seventh, which provides
28 an equal share based on the number of distribution regions.

29 (d) In each fiscal year, the Department shall, as nearly as practicable, expend in a
30 distribution region an amount equal to that region's tentative percentage share of the
31 funds that are subject to this section and are available for that fiscal year. In any
32 consecutive seven-year period, the amount expended in a distribution region must be
33 between ninety percent (90%) and one hundred ten percent (110%) of the sum of the
34 amounts established under this subsection as the target amounts to be expended in the
35 region for those seven years.

36 (e) In making the calculation under this section, the Secretary shall use the most
37 recent estimates of population certified by the State Budget Officer."

38 Sec. 6. G.S. 136-28.4 reads as rewritten:

39 **"§ 136-28.4. State ~~policy; cooperation in promoting the use of~~ policy concerning**
40 **participation by small, minority, physically handicapped and women**
41 **minority contractors.**

42 (a) It is the policy of this State to encourage and promote the use of small,
43 minority, physically handicapped and women minority contractors in the construction,
44 alteration and maintenance of State roads, streets, highways, and bridges and in the

1 procurement of materials for such projects. All State agencies, institutions and political
2 subdivisions shall cooperate with the Department of Transportation and all other State
3 agencies, institutions and political subdivisions in efforts to encourage and promote the
4 use of ~~small, minority, physically handicapped and women~~ minority contractors in such
5 State construction, alteration, maintenance and procurement.

6 (b) A ten percent (10%) goal for participation by minority businesses in road or
7 bridge construction, alteration, or maintenance projects is established. The Department
8 of Transportation shall endeavor to award to minority businesses at least ten percent
9 (10%), by value, of the contracts it lets for the construction, alteration, or maintenance
10 of roads and bridges. The Department shall adopt written procedures specifying the
11 steps it will take to achieve this goal, provided that the Department shall give equal
12 opportunity for contracts it lets without regard to race, religion, color, creed, national
13 origin, sex, age, or handicapping condition, as defined in G.S. 168A-3, to all contractors
14 and businesses otherwise qualified.

15 (c) As used in this section, the term 'minority' has the same meaning as in 49
16 C.F.R. § 23.5."

17 Sec. 7. G.S. 136-41.1(a) reads as rewritten:

18 "(a) There is hereby annually appropriated out of the State Highway Fund a sum
19 equal to ~~the net amount after refunds that was produced during the fiscal year by a one~~
20 ~~and three fourths cents (1 3/4¢) tax on each gallon of motor fuel as taxed by G.S. 105-~~
21 ~~434 and 105-435, seven and one-half percent (7 1/2%) of the annual net revenues paid~~
22 into the State Highway Fund the preceding fiscal year, to be allocated in cash on or
23 before October 1 of each year to the cities and towns of the State in accordance with the
24 following formula:

25 Seventy-five percent (75%) of said funds shall be distributed among the several
26 eligible municipalities of the State in the percentage proportion that the population of
27 each eligible municipality bears to the total population of all eligible municipalities
28 according to the most recent annual estimates of population as certified to the Secretary
29 of Revenue by the State Budget Officer. This annual estimation of population shall
30 include increases in the population within the municipalities caused by annexations
31 accomplished through July 1 of the calendar year in which these funds are distributed.
32 Twenty-five percent (25%) of said fund shall be distributed among the several eligible
33 municipalities of the State in the percentage proportion that the mileage of public streets
34 in each eligible municipality which does not form a part of the State highway system
35 bears to the total mileage of the public streets in all eligible municipalities which do not
36 constitute a part of the State highway system.

37 It shall be the duty of the mayor of each municipality to report to the Department of
38 Transportation such information as it may request for its guidance in determining the
39 eligibility of each municipality to receive funds by virtue of G.S. 136-41.1 and 136-41.2
40 and in determining the amount of allocation to which each is entitled. Upon failure of
41 any municipality to make such report within the time prescribed by the Department of
42 Transportation, the Department of Transportation may disregard such defaulting unit in
43 making said allotment.

1 The funds to be allocated under this section shall be paid in cash to the various
2 eligible municipalities on or before October 1 of each year~~after March 15, 1951~~.
3 Provided that eligible municipalities are authorized within the discretion of their
4 governing bodies to enter into contracts for the purpose of maintenance, repair,
5 construction, reconstruction, widening, or improving streets of such municipalities at
6 any time after January 1 of any calendar year in total amounts not to exceed ninety
7 percent (90%) of the amount received by such municipality during the preceding fiscal
8 year, in anticipation of the receipt of funds under this section during the next fiscal year,
9 to be paid for out of such funds when received.

10 ~~No allocation to cities and towns shall be made under the provisions of this section~~
11 ~~from the one cent (1¢) per gallon additional tax on gasoline imposed by Chapter 46 of~~
12 ~~the Session Laws of 1965, unless and until said additional one cent (1¢) per gallon tax~~
13 ~~produces funds which are not needed for or committed by said Chapter 46 of the~~
14 ~~Session Laws of 1965, to the payment of the principal of or the interest on the~~
15 ~~secondary road bonds issued pursuant to the provisions of said Chapter 46 of the~~
16 ~~Session Laws of 1965. The Department of Transportation is hereby authorized to~~
17 The Department of Transportation may withhold each year an amount not to exceed one
18 percent (1%) of the total amount appropriated in G.S. 136-41.1 for the purpose of
19 correcting errors in allocations: Provided, that the amount so withheld and not used for
20 correcting errors will be carried over and added to the amount to be allocated for the
21 following year.

22 The word 'street' as used in this section is hereby defined as any public road
23 maintained by a municipality and open to use by the general public, and having an
24 average width of not less than 16 feet. In order to obtain the necessary information to
25 distribute the funds herein allocated, the Department of Transportation may require that
26 each municipality eligible to receive funds under G.S. 136-41.1 and 136-41.2 submit to
27 it a statement, certified by a registered engineer or surveyor of the total number of miles
28 of streets in such municipality. The Department of Transportation may in its discretion
29 require the certification of mileage on a biennial basis."

30 Sec. 8. G.S. 136-44.2A reads as rewritten:

31 "**§ 136-44.2A. Secondary road construction.**

32 There shall be annually allocated out of the State Highway Fund to the Department
33 of Transportation for secondary road construction programs developed pursuant to G.S.
34 136-44.7 and 136-44.8, a sum equal to that allocation made under G.S. 136-41.1(a).
35 ~~Such secondary roads allocation shall be made in accordance with the provisions of G.S. 136-~~
36 ~~44.5. The sum of sixty-eight million six hundred seventy thousand dollars (\$68,670,000)~~
37 shall be allocated among the counties in accordance with G.S. 136-44.5(b). All funds
38 for secondary road construction in excess of that amount shall be allocated among the
39 counties in accordance with G.S. 136-44.5(c)."

40 Sec. 9. G.S. 136-44.5 reads as rewritten:

41 "**§ 136-44.5. Secondary roads; mileage study; allocation of funds.**

42 (a) Before July 1, in each calendar year, the Department of Transportation shall
43 make a study of all state-maintained unpaved roads in the State. The study shall
44 determine the number of miles of unpaved state-maintained roads in each county, and

1 the total number of miles of unpaved state-maintained roads in the State. State, the
2 number of miles of unpaved state-maintained roads in each county that have a traffic
3 vehicular equivalent of at least 50 vehicles a day, and the total number of miles of
4 unpaved state-maintained roads in the State that have a traffic vehicular equivalent of at
5 least 50 vehicles a day. Except for federal-aid programs, the Department shall allocate
6 all secondary road construction funds on the basis of a formula using the study figures.

7 ~~The allocation shall be~~

8 (b) The first sixty-eight million six hundred seventy thousand dollars
9 (\$68,670,000) shall be allocated as follows: Each county shall receive a percentage of
10 ~~the total funds available for totally state-funded secondary road construction, these funds,~~ the
11 percentage to be determined as a factor of the number of miles of unpaved state-
12 maintained secondary roads in the county divided by the total number of miles of
13 unpaved state-maintained secondary roads in the State.

14 (c) Funds allocated for secondary road construction in excess of sixty-eight
15 million six hundred seventy thousand dollars (\$68,670,000) shall be allocated to each
16 county based on the percentage proportion that the number of miles in the county of
17 state-maintained unpaved secondary roads with a traffic vehicular equivalent of at least
18 50 vehicles a day bears to the total number of miles in the State of state-maintained
19 unpaved secondary roads with a traffic vehicular equivalent of at least 50 vehicles a
20 day.

21 (d) Copies of the Department study of unpaved state-maintained secondary roads
22 and copies of the individual county allocations shall be made available to newspapers
23 having general circulation in each county."

24 Sec. 10. G.S. 136-44.7 reads as rewritten:

25 "**§ 136-44.7. Secondary roads; annual work program.**

26 (a) The Department of Transportation shall be responsible for developing criteria
27 for improvements and maintenance of secondary roads. The criteria shall be adopted by
28 the Board of Transportation before it shall become effective. The Department of
29 Transportation shall be responsible for developing annual work programs for both
30 construction and maintenance of secondary roads in each county in accordance with
31 criteria developed. It shall reflect the long-range and immediate goals of the Department
32 of Transportation. Projects on the annual construction program for each county shall be
33 rated according to their priority based upon the secondary road criteria and standards
34 which shall be uniform throughout the State. Tentative construction projects and
35 estimated funding shall also be listed in accordance to priority. The annual construction
36 program shall be adopted by the Board of Transportation before it shall become
37 effective.

38 (b) When a secondary road in a county is listed in the first 10 secondary roads to
39 be paved during a year on a priority list issued by the Department of Transportation
40 under this section, the secondary road cannot be removed from the top 10 of that list or
41 any subsequent list until it is paved. All secondary roads in a county shall be paved,
42 insofar as possible, in the priority order of the list."

43 Sec. 11. G.S. 143B-350(f)(4) reads as rewritten:

1 "(4) To approve a schedule of all major transportation improvement projects and
2 their anticipated cost for a period of seven years into the future ~~which shall be published in~~
3 ~~a single document along with a report of the progress accomplished in the past year and the~~
4 ~~anticipated funding sources for these projects; future.~~ This schedule is designated the
5 Transportation Improvement Program; it must be published and copies must be
6 available for distribution. The document that contains the Transportation Improvement
7 Program, or a separate document that is published at the same time as the
8 Transportation Improvement Program, must include the anticipated funding sources for
9 the improvement projects included in the Program, a list of any changes made from the
10 previous year's Program, and the reasons for the changes;".

11 Sec. 12. The Department of Transportation shall determine on which
12 highways and bridges it is economically feasible to collect tolls and shall report its
13 findings to the General Assembly at the beginning of either its 1990 or 1991 Session. If
14 the Department finds it desirable to establish toll roads, the Department shall include in
15 its report any legislation needed to establish toll roads and to implement the collection
16 of tolls, including the creation of a North Carolina Toll Roads Authority.

17 Sec. 12.1. The Legislative Research Commission may study the long- range
18 transportation needs of North Carolina. In conducting the study the Commission may
19 consider the present and future transportation needs for vehicles, trucks, and passenger
20 vehicles, the use and availability of railroad corridors, and the use and availability of
21 high-speed traffic lanes. In addition the Commission may study alternative methods of
22 transportation within a locality, such as a bike way or sidewalk. The Commission shall
23 further consider the impact that the Highway Trust Fund has on potential revenue
24 sources for alternative transportation and whether the needs of alternative transportation
25 can be met by either the Highway Fund or the Highway Trust Fund.

PART II

INCREASE CERTAIN VEHICLE REGISTRATION FEES AND REPEAL ROAD TAX REGISTRATION FEE

29 Sec. 13. G.S. 20-85 reads as rewritten:

"§ 20-85. Schedule of fees.

31 (a) Except as provided in G.S. 20-68, there shall be paid to the Division for
32 the issuance of certificates of title, transfer of registration and replacement of
33 registration plates fees according to the following schedules:

- 34 (1) Each application for certificate of
35 title ~~\$5.00~~ \$40.00
- 36 (2) Each application for duplicate
37 or corrected certificate of title ~~7.00~~ 10.00
- 38 (3) Each application of reposessor for
39 certificate of title ~~5.00~~ 10.00
- 40 (4) Each transfer of registration ~~4.00~~ 10.00
- 41 (5) Each set of replacement registration
42 plates ~~9.00~~ 10.00
- 43 (6) Each application for duplicate registration
44 certificate ~~3.00~~ 10.00

1 (7) Each application for recording supplementary
2 lien ~~3.00~~ 10.00

3 (8) Each application for removing a lien from a
4 certificate of title ~~4.00~~ 10.00.

5 (b) The fees in this section are in addition to the tax imposed by Article 5A of
6 Chapter 105 of the General Statutes."

7 Sec. 14. G.S. 20-85.1 reads as rewritten:

8 **"§ 20-85.1. Registration by mail; one-day title service; fees.**

9 (a) The owner of a vehicle registered in North Carolina may renew that vehicle
10 registration by mail. A postage and handling fee of one dollar (\$1.00) per vehicle to be
11 registered shall be charged for this service.

12 (b) The Commissioner and such employees of the Division as he may designate
13 ~~are hereby authorized to~~ may prepare and deliver upon request a certificate of title,
14 charging a fee of ~~twenty-five dollars (\$25.00)~~ fifty dollars (\$50.00) for one-day title
15 service, in lieu of the title fee required by G.S. 20-85. ~~subsection (a).~~ The fee for one-
16 day title service must be paid by cash or by certified check."

17 Sec. 15. G.S. 20-87(7) reads as rewritten:

18 "(7) Manufacturers and Motor Vehicle Dealers.—Manufacturers and dealers
19 in motor vehicles, trailers and semitrailers ~~for license and for one set of~~
20 ~~dealer's plates for each place of business licensed under Article 12 of~~
21 ~~Chapter 20 of the General Statutes shall pay the sum of thirty-eight~~
22 ~~dollars (\$38.00) and for each additional set of dealer's plates the sum~~
23 ~~of three dollars (\$3.00) shall pay a fee of one-half the amount that~~
24 would otherwise be payable under this section for each set of plates.

25 (8) Driveaway Companies. – Any person, firm or corporation engaged in
26 the business of driving new motor vehicles from the place of
27 manufacture to the place of sale in this State for compensation shall
28 pay as a registration fee and for one set of plates ~~one hundred twenty-eight~~
29 ~~dollars (\$128.00) and for each additional set of plates six dollars (\$6.00)~~
30 one-half of the amount that would otherwise be payable under this
31 section for each set of plates."

32 Sec. 16. Effective July 1, 1993, G.S. 20-87 reads as rewritten:

33 **"§ 20-87. Passenger vehicle registration fees.**

34 There shall be paid to the Division annually, as of the first day of January, for the
35 registration and licensing of passenger vehicles, fees according to the following
36 classifications and schedules:

37 (1) Common Carrier, Contract Carriers and Exempt For-Hire Passenger
38 Carrier Vehicles. – For-hire passenger vehicles shall be taxed at the
39 rate of ~~seventy-eight dollars (\$78.00)~~ eighty-five dollars and fifty cents
40 (\$85.50) per year for each vehicle of fifteen-passenger capacity or less
41 and vehicles of over fifteen-passenger capacity shall be classified as
42 buses and shall be taxed at a rate of ~~one dollar and forty cents (\$1.40)~~ one
43 dollar and fifteen cents (\$1.15) per hundred pounds of empty weight
44 per year for each vehicle; provided, however, no license shall be issued

for the operation of any taxicab until the governing body of the city or town in which such taxicab is principally operated, if the principal operation is in a city or town, has issued a certificate showing:

- a. That the operator of such taxicab has provided liability insurance or other form of indemnity for injury to person or damage to property resulting from the operation of such taxicab, in such amount as required by the city or town, and
- b. That the convenience and necessity of the public requires the operation of such taxicab.

All persons operating taxicabs on January 1, 1945, shall be entitled to a certificate of necessity and convenience for the number of taxicabs operated by them on such date, unless since said date the license of such person or persons to operate a taxicab or taxicabs has been revoked or their right to operate has been withdrawn or revoked; provided that all persons operating taxicabs in Edgecombe, Lee, Nash and Union Counties on January 1, 1945, shall be entitled to certificates of necessity and convenience only with the approval of the governing authority of the town or city involved.

A taxicab shall be defined as any motor vehicle, seating nine or fewer passengers, operated upon any street or highway on call or demand, accepting or soliciting passengers indiscriminately for hire between such points along streets or highways as may be directed by the passenger or passengers so being transported, and shall not include motor vehicles or motor vehicle carriers as defined in Article 17 of this Chapter. Such taxicab shall not be construed to be a common carrier nor its operator a public service corporation.

(2) U-Drive-It Passenger Vehicles. – U-drive-it passenger vehicles shall pay the following tax:

Motorcycles:	1-passenger capacity	\$18.00 <u>19.80</u>
	2-passenger capacity	22.00 <u>24.20</u>
	3-passenger capacity	26.00 <u>28.60</u>

Automobiles: ~~Forty-one dollars (\$41.00)~~ Forty-five dollars and ten cents (\$45.10) per year for each vehicle of fifteen-passenger capacity or less, and vehicles of over fifteen-passenger capacity shall be classified as buses and shall pay ~~one dollar and forty cents (\$1.40)~~ one dollar and fifteen cents (\$1.15) per hundred pounds empty weight of each vehicle.

(3) Repealed by Session Laws 1981, c. 976, s. 3, effective January 1, 1982.

(4) Limousine Vehicles. – For-hire passenger vehicles on call or demand which do not solicit passengers indiscriminately for hire between points along streets or highways, shall be taxed at the same rate as for-hire passenger vehicles under G.S. 20-87(1) but shall be issued appropriate registration plates to distinguish such vehicles from taxicabs.

(5) Private Passenger Vehicles. – There shall be paid to the Division annually, as of the first day of January, for the registration and

1 licensing of private passenger vehicles, fees according to the following
2 classifications and schedules:

3 Private passenger vehicles of not more than
4 fifteen passengers ~~\$20.00~~ 22.00
5 Private passenger vehicles over
6 fifteen passengers ~~23.00~~ 25.30

7 Provided, that a fee of only one dollar (\$1.00) shall be charged for any vehicle given
8 by the federal government to any veteran on account of any disability suffered during
9 war so long as such vehicle is owned by the original donee or other veteran entitled to
10 receive such gift under Title 38, section 252, United States Code Annotated.

11 (6) Private Motorcycles. – The tax on private passenger motorcycles shall
12 be ~~nine dollars (\$9.00)~~ nine dollars and ninety cents (\$9.90); except that
13 when a motorcycle is equipped with an additional form of device
14 designed to transport persons or property, the tax shall be ~~sixteen~~
15 ~~dollars (\$16.00)~~ seventeen dollars and sixty cents (\$17.60).

16 (7) Manufacturers and Motor Vehicle Dealers.–Manufacturers and dealers
17 in motor vehicles, trailers and semitrailers for license shall pay a fee of
18 one-half the amount that would otherwise be paid under this section
19 for each set of plates.

20 (8) Driveaway Companies. – Any person, firm or corporation engaged in
21 the business of driving new motor vehicles from the place of
22 manufacture to the place of sale in this State for compensation shall
23 pay one-half of the amount that would otherwise be payable under this
24 section for each set of plates.

25 (9) House Trailers. – In lieu of other registration and license fees levied on
26 house trailers under this section or G.S. 20-88, the registration and
27 license fee on house trailers shall be ~~seven dollars (\$7.00)~~ seven dollars
28 and seventy cents (\$7.70) for the license year or any portion thereof.

29 (10) Special Mobile Equipment. – The tax for special mobile equipment
30 shall be ~~seven dollars (\$7.00)~~ seven dollars and seventy cents (\$7.70) for
31 the license year or any portion thereof; provided, that vehicles on
32 which are permanently mounted feed mixers, grinders and mills and on
33 which are also transported molasses or other similar type feed
34 additives for use in connection with the feed mixing, grinding or
35 milling process shall be taxed an additional sum of ~~thirty-three dollars~~
36 ~~(\$33.00)~~ thirty-six dollars and thirty cents (\$36.30) for the license year
37 or any portion thereof, in addition to the basic ~~four dollars (\$4.00)~~ four
38 dollars and forty cents (\$4.40) tax provided for herein.

39 (11) Any vehicle fee determined under this section according to the weight
40 of the vehicle shall be increased by the sum of three dollars (\$3.00) to
41 arrive at the total fee.”

42 Sec. 17. G.S. 20-88 reads as rewritten:

43 "§ 20-88. Property-hauling vehicles.

1 (a) Determination of Weight. – For the purpose of licensing, the weight of self-
 2 propelled property-carrying vehicles shall be the empty weight and heaviest load to be
 3 transported, as declared by the owner or operator; provided, that any determination of
 4 weight shall be made only in units of 1,000 pounds or major fraction thereof, weights of
 5 over 500 pounds counted as 1,000 and weights of 500 pounds or less disregarded. The
 6 declared gross weight of self-propelled property-carrying vehicles operated in
 7 conjunction with trailers or semitrailers shall include the empty weight of the vehicles to
 8 be operated in the combination and the heaviest load to be transported by such
 9 combination at any time during the registration period, except that the gross weight of a
 10 trailer or semitrailer is not required to be included when the operation is to be in
 11 conjunction with a self-propelled property-carrying vehicle which is licensed for 6,000
 12 pounds or less gross weight and the gross weight of such combination does not exceed
 13 9,000 pounds, except wreckers as defined under G.S. 20-4.01(50). Those property-
 14 hauling vehicles registered for 4,000 pounds shall be permitted a tolerance of 500
 15 pounds above the weight permitted under the table of weights and rates appearing in
 16 subsection (b) of this section.

17 (b) There shall be paid to the Division annually, as of the first day of January, for
 18 the registration and licensing of self-propelled property-carrying vehicles, fees
 19 according to the following classification and schedule and upon the following
 20 conditions:

21 **SCHEDULE OF WEIGHTS AND RATES**

22 **RATES PER HUNDRED POUND GROSS WEIGHT**

23		Farmer
24		
25	Not over 4,500 pounds	\$ 0.23 <u>28</u>
26	4,501 to 8,500 pounds inclusive	<u>.29</u> <u>34</u>
27	8,501 to 12,500 pounds inclusive	<u>.37</u> <u>42</u>
28	12,501 to 16,500 pounds inclusive	<u>.54</u> <u>55</u>
29	Over 16,500 pounds <u>16,501 pounds to</u>	
30	<u>26,000 pounds inclusive</u>	<u>.58</u> <u>68</u>
31	<u>Over 26,000 pounds</u>	<u>.73</u>

32 **SCHEDULE OF WEIGHTS AND RATES**

33 **RATES PER HUNDRED POUND GROSS WEIGHT**

34		Private Hauler,
35		Contract Carriers,
36		Flat Rate Common
37		
38		
39		
40	Carriers and Exempt for-Hire Carriers	
41	Not over 4,500 pounds	\$ 0.46 <u>0.56</u>
42	4,501 to 8,500 pounds inclusive	<u>.58</u> <u>.68</u>
43	8,501 to 12,500 pounds inclusive	<u>.73</u> <u>.83</u>
44	12,501 to 16,500 pounds inclusive	<u>1.01</u> <u>1.11</u>

1	Over 16,500 pounds <u>16,501 pounds</u>	
2	<u>to 26,000 pounds inclusive</u>	1.15 <u>1.35</u>
3	<u>Over 26,000 pounds</u>	<u>1.45</u>

4

5

6 (1) The minimum fee for a vehicle licensed under this subsection shall be
7 ~~seventeen dollars and fifty cents (\$17.50)~~ twenty-one dollars and fifty
8 cents (\$21.50) at the farmer rate and ~~twenty-one dollars and fifty cents~~
9 ~~(\$21.50)~~ twenty-six dollars and fifty cents (\$26.50) at the private
10 hauler, contract carrier and common carrier rates.

11 (2) The term 'farmer' as used in this subsection means any person engaged
12 in the raising and growing of farm products on a farm in North
13 Carolina not less than 10 acres in area, and who does not engage in the
14 business of buying products for resale.

15 (3) License plates issued at the farmer rate shall be placed upon trucks and
16 truck-tractors that are operated exclusively in the carrying or
17 transportation of applicant's farm products, raised or produced on his
18 farm, and farm supplies and not operated in hauling for hire.

19 (4) 'Farm products' means any food crop, livestock, poultry, dairy
20 products, flower bulbs, or other nursery products and other agricultural
21 products designed to be used for food purposes, including in the term
22 'farm products' also cotton, tobacco, logs, bark, pulpwood, tannic acid
23 wood and other forest products grown, produced, or processed by the
24 farmer.

25 (5) The Division shall issue necessary rules and regulations providing for
26 the recall, transfer, exchange or cancellation of 'farmer' plates, when
27 vehicle bearing such plates shall be sold or transferred.

28 (5a) Notwithstanding any other provision of this Chapter, license plates
29 issued pursuant to this subsection at the farmer rate may be purchased
30 for any three-month period at one fourth of the annual fee.

31 (6) There shall be paid to the Division annually as of the first of January,
32 the following fees for 'wreckers' as defined under G.S. 20-4.01(50): a
33 wrecker fully equipped weighing 7,000 pounds or less, ~~seventy-five~~
34 ~~dollars (\$75.00)~~ one hundred twelve dollars and fifty cents (\$112.50);
35 wreckers weighing in excess of 7,000 pounds shall pay ~~one hundred~~
36 ~~forty-eight dollars (\$148.00)~~ two hundred twenty-two dollars (\$222.00).
37 Fees to be prorated quarterly. Provided, further, that nothing herein
38 shall prohibit a licensed dealer from using a dealer's license plate to
39 tow a vehicle for a customer.

40 (c) There shall be paid to the Division annually, as of the first day of January, for
41 the registration and licensing of trailers or semitrailers, ~~ten dollars (\$10.00)~~ fifteen
42 dollars (\$15.00) for any part of the license year for which said license is issued.

43 (d) Rates on trucks, trailers and semitrailers wholly or partially equipped with
44 solid tires shall be double the above schedule.

1 (e) Repealed by Session Laws 1981, c. 976, s. 6, effective January 1, 1982.

2 (f) Nonresident motor vehicle carriers which do not operate in intrastate
3 commerce in this State, and the title to whose vehicles are not required to be registered
4 under the provisions of this Article, shall be taxed for the use of the roads in this State
5 and shall pay the same fees therefor as are required with reference to like vehicles
6 owned by residents of this State: Provided, that if any such fees as applied to
7 nonresidents shall at any time become inoperative, such carriers shall be taxed for the
8 use of the roads of this State as common carriers of property as provided above:
9 Provided, further, that this provision shall not prevent the extension to vehicles of other
10 states of the benefits of the reciprocity provisions provided by law.

11 (g) Repealed by Session Laws 1969, c. 600, s. 17.

12 (h) Repealed by Session Laws 1979, c. 419.

13 (i) Any vehicle fee determined under this section according to the weight of the
14 vehicle shall be increased by the sum of three dollars (\$3.00) to arrive at the total fee.

15 (j) No heavy vehicle subject to the use tax imposed by Section 4481 of the
16 Internal Revenue Code of 1954 (26 U.S.C. 4481) may be registered or licensed pursuant
17 to G.S. 20-88 without proof of payment of the use tax imposed by that law. The proof of
18 payment shall be on a form prescribed by the United States Secretary of Treasury
19 pursuant to the provisions of 23 U.S.C. 141 (d)."

20 Sec. 18. G.S. 20-88.01 reads as rewritten:

21 "**§ 20-88.01. Registration of certain vehicles for road tax-Revocation of registration**
22 **for failure to register for or comply with road tax.**

23 ~~Owners of passenger vehicles with seating capacity for more than 20 passengers,~~
24 ~~road tractors, tractor trucks, or trucks with more than two axles shall, in addition to all~~
25 ~~other registration fees imposed by this Article, pay a registration fee of ten dollars~~
26 ~~(\$10.00) to register for purposes of the road tax imposed by Article 36B of Chapter 105.~~
27 ~~This fee shall be paid to the Commissioner at the same time as the fees imposed by G.S.~~
28 ~~20-87 or G.S. 20-88 are paid. All vehicles licensed for more than 32,000 pounds are~~
29 ~~presumed to have more than two axles. When registering a vehicle under this section,~~
30 ~~the owner of a vehicle that is leased to another shall report the name of the lessee to the~~
31 ~~Commissioner.~~

32 ~~The Commissioner shall report all vehicles registered under this section to the~~
33 ~~Secretary of Revenue. No registration plate or registration renewal sticker shall be~~
34 ~~issued for a motor vehicle required to be registered under this section if the owner or~~
35 ~~lessee of that vehicle is not in compliance with Articles 36A or 36B of Chapter 105. The~~
36 ~~registration plate or registration renewal sticker issued for a motor vehicle under G.S.~~
37 ~~20-87 or 20-88 signifies registration in accordance with this section. The Commissioner~~
38 ~~may revoke the registration plate for a motor vehicle registered under this section~~
39 ~~whenever the owner or lessee of the vehicle fails to comply with Articles 36A or 36B of~~
40 ~~Chapter 105.~~

41 ~~This section does not apply to vehicles owned by the United States, the State or its~~
42 ~~political subdivisions, special mobile equipment as defined in G.S. 20-4.01(44), and~~
43 ~~vehicles owned by nonprofit religious, educational, charitable, or benevolent~~
44 ~~organizations. The Secretary of Revenue shall notify the Commissioner of all motor~~

1 vehicles that are required to be registered with the Secretary under G.S. 105-449.47 and
2 all vehicles that are registered under that statute but whose owners or lessees are not in
3 compliance with Article 36A or 36B of Chapter 105. The Commissioner may not
4 register a vehicle under this Article that is required to be registered, but is not registered,
5 under G.S. 105-449.47 or a vehicle whose owner or lessee, as appropriate, is not in
6 compliance with Article 36A or 36B of Chapter 105. In addition, upon notification by
7 the Secretary, the Commissioner may revoke the registration plate for a motor vehicle
8 registered under G.S. 105-449.47 whenever the owner or lessee of the vehicle, as
9 appropriate, fails to comply with Articles 36A or 36B of Chapter 105.”

10 Sec. 19. G.S. 105-449.47 reads as rewritten:

11 **"§ 105-449.47. Registration of vehicles.**

12 A motor carrier may not operate or cause to be operated in this State any vehicle
13 listed in the definition of motor carrier unless the motor carrier has registered the
14 vehicle for purposes of the tax imposed by this Article with the ~~Commissioner of Motor~~
15 ~~Vehicles or the Secretary, as appropriate~~Secretary. All vehicles required to be registered under
16 this section that are registered in this State under G.S. 20-87 or G.S. 20-88 shall be registered
17 with the ~~Commissioner of Motor Vehicles pursuant to G.S. 20-88.01 for the purposes of the tax~~
18 ~~imposed by this Article. All other vehicles required to be registered under this section shall be~~
19 ~~registered with the Secretary.~~

20 Upon application ~~and payment of a fee of ten dollars (\$10.00),~~ the Secretary shall issue
21 a registration card and identification marker for a vehicle. The registration card shall be
22 carried in the vehicle for which it was issued when the vehicle is in this State. The
23 identification marker shall be clearly displayed at all times and shall be affixed to the
24 vehicle for which it was issued in the place and manner designated by the Secretary.
25 Every identification marker issued shall bear a number that corresponds to the number
26 on the registration card issued for the same vehicle. Registration cards and identification
27 markers required by this section shall be issued on a calendar year basis. The Secretary
28 may renew registration cards and identification markers without issuing new cards and
29 markers. All identification markers issued by the Secretary remain the property of the
30 State. The Secretary may withhold or revoke a registration card and identification
31 marker when a motor carrier fails to comply with this Article or Article 36A of this
32 Subchapter."

33 **PART III.**

34 **HIGHWAY USE TAX.**

35 Sec. 20. Chapter 105 of the General Statutes is amended by adding a new
36 Article to read:

37 **"ARTICLE 5A.**

38 **"NORTH CAROLINA HIGHWAY USE TAX.**

39 **"§ 105-165. Definitions.**

40 The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

41 (1) 'Commissioner' means the Commissioner of Motor Vehicles.

42 (2) 'Division' means the Division of Motor Vehicles, Department of
43 Transportation.

44 **"§ 105-166. Highway use tax imposed.**

1 A tax is imposed on the privilege of using the highways of this State. This tax is in
2 addition to all other taxes and fees imposed.

3 **"§ 105-167. Rate of tax.**

4 (a) The rate of the use tax imposed by this Article is three percent (3%) of the
5 retail value of a motor vehicle for which a certificate of title is issued. The tax is
6 payable as provided in G.S. 105-168. The tax may not be less than forty dollars
7 (\$40.00), nor more than one thousand dollars (\$1,000) for each motor vehicle for which
8 a certificate of title is issued.

9 (b) The retail value of a motor vehicle for which a certificate of title is issued
10 because of a sale of the motor vehicle is the sales price of the motor vehicle, less the
11 amount of any allowance given by the seller for a motor vehicle taken in trade as a
12 partial payment for the purchased motor vehicle. The retail value of a motor vehicle for
13 which a certificate of title is issued because of a reason other than the sale of the motor
14 vehicle is the value of the vehicle set in a schedule of values adopted by the
15 Commissioner.

16 (c) In adopting a schedule of values for motor vehicles, the Commissioner shall
17 adopt a schedule whose values do not exceed the wholesale values of motor vehicles as
18 published in a recognized automotive reference manual.

19 **"§ 105-168. Payment of tax.**

20 (a) The tax imposed by this Article must be paid to the Commissioner when
21 applying for a certificate of title for a motor vehicle. The Commissioner may not issue
22 a certificate of title for a vehicle until the tax imposed by this Article has been paid.
23 The tax may be paid in cash or by check.

24 (b) When a certificate of title for a motor vehicle is issued because of a sale of
25 the motor vehicle, the applicant for the certificate of title must attach the bill of sale for
26 the motor vehicle to the application. A retailer who sells a motor vehicle may collect
27 from the purchaser of the vehicle the tax payable upon the issuance of a certificate of
28 title for the vehicle, apply for a certificate of title on behalf of the purchaser, and remit
29 the tax due on behalf of the purchaser.

30 **"§ 105-169. Alternate tax for those who rent or lease motor vehicles.**

31 (a) A retailer who is engaged in the business of leasing or renting motor vehicles
32 may elect not to pay the tax imposed by this Article at the rate set in G.S. 105-167 when
33 applying for a certificate of title for a motor vehicle purchased by the retailer for lease
34 or rental. A retailer who makes this election shall pay a tax on the gross receipts of the
35 lease or rental of the vehicle at a rate of six percent (6%) of the gross receipts. Like the
36 tax imposed by G.S. 105-167, this alternate tax is a tax on the privilege of using the
37 highways of this State. The maximum tax in G.S. 105-167(a) does not apply to the
38 lease or rental of motor vehicles under this section.

39 (b) A retailer who elects to pay tax on the gross receipts of the lease or rental of a
40 motor vehicle shall make this election when applying for a certificate of title for the
41 vehicle. To make the election, the retailer shall complete a form provided by the
42 Division giving information needed to collect the tax based on gross receipts. Once
43 made, an election is irrevocable.

1 (c) The Division shall notify the Secretary of Revenue of a retailer who makes
2 the election under this section. A retailer who makes this election shall report and remit
3 to the Secretary the tax on the gross receipts of the lease or rental of the motor vehicle
4 as if the gross receipts were taxable under G.S. 105-164.4(a)(2).

5 **"§ 105-170. Partial exemptions from highway use tax.**

6 (a) Only the minimum tax imposed by this Article applies when a certificate of
7 title is issued as a result of the transfer of a motor vehicle:

8 (1) By a gift between a husband and wife or a parent and child.

9 (2) By will or intestacy.

10 (3) To one of the following for the purpose of resale: a motor vehicle
11 retailer or a secured party who has filed a security interest in the motor
12 vehicle with the Department of the Secretary of State.

13 (4) To a partnership or corporation as an incident to the formation of the
14 partnership or corporation and no gain or loss arises on the transfer
15 under Section 351 or Section 721 of the Internal Revenue Code, or to a
16 corporation by merger or consolidation in accordance with G.S. 55-
17 110.

18 (5) To the same owner to reflect a change in the owner's name.

19 (6) To an insurance company to settle a claim concerning a motor vehicle.

20 (7) That is a wrecked motor vehicle for which a salvage title is issued.

21 (b) A maximum tax of one hundred dollars (\$100.00) applies when a certificate
22 of title is issued for a motor vehicle that, at the time of applying for a certificate of title,
23 is and has been titled in another state for at least 90 days.

24 **"§ 105-171. Credit for tax paid in another state.**

25 A person who, within 90 days before applying for a certificate of title for a motor
26 vehicle on which the tax imposed by this Article is due, has paid a sales tax, an excise
27 tax, or a tax substantially equivalent to the tax imposed by this Article on the vehicle to
28 a taxing jurisdiction outside this State is entitled to a credit against the tax due under this
29 Article for the amount of tax paid to the other jurisdiction. The credit may not reduce
30 the person's liability under this Article below the minimum forty-dollar (\$40.00) tax.

31 **"§ 105-172. Refund for return of purchased motor vehicle.**

32 When a purchaser of a motor vehicle returns the motor vehicle to the seller of the
33 motor vehicle within 90 days after the purchase and receives a vehicle replacement for
34 the returned vehicle or a refund of the price paid the seller, whether from the seller or
35 the manufacturer of the vehicle, the purchaser may obtain a refund of the privilege tax
36 paid on the returned motor vehicle, less the minimum tax of forty dollars (\$40.00). To
37 obtain a refund, the purchaser must apply to the Division for a refund within 30 days
38 after receiving the replacement vehicle or refund of the purchase price. The application
39 must be made on a form prescribed by the Commission and must be supported by
40 documentation from the seller of the returned vehicle.

41 **"§ 105-173. Tax deposited in Highway Trust Fund; transfer to General Fund.**

42 Taxes collected under this Article shall be deposited in the North Carolina Highway
43 Trust Fund. In each fiscal year, the State Treasurer shall transfer the sum of one
44 hundred seventy million dollars (\$170,000,000) from the Highway Trust Fund to the

1 General Fund. The State Treasurer shall transfer one-fourth of this amount at the end of
2 each quarter in the fiscal year.

3 **"§ 105-174. Penalties and remedies.**

4 (a) The penalties applicable to a failure to pay State sales and use taxes apply to a
5 failure to pay the tax levied by this Article. In addition, if a check offered in payment of
6 the tax imposed by this Article is returned unpaid and the tax for which the check was
7 offered is not paid within 30 days after the Commissioner demands its payment, the
8 Commissioner shall cancel the certificate of title that was issued when the check was
9 offered.

10 (b) In applying the provisions of Article 9 of this Chapter to the tax levied by this
11 Article, the Commissioner shall exercise the power conferred upon the Secretary. A
12 taxpayer who appeals the tax imposed by this Article shall appeal to the Commissioner
13 or his designee instead of to the Secretary."

14 Sec. 21. Effective July 1, 1993, G.S. 105-167, as enacted by this act, reads as
15 rewritten:

16 **"§ 105-167. Rate of tax.**

17 (a) The rate of the use tax imposed by this Article is three percent (3%) of the
18 retail value of a motor vehicle for which a certificate of title is issued. The tax is
19 payable as provided in G.S. 105-168. The tax may not be less than forty dollars
20 (\$40.00), nor more than one thousand ~~dollars (\$1,000)~~ five hundred dollars (\$1,500) for
21 each motor vehicle for which a certificate of title is issued.

22 (b) The retail value of a motor vehicle for which a certificate of title is issued
23 because of a sale of the motor vehicle is the sales price of the motor vehicle, less the
24 amount of any allowance given by the seller for a motor vehicle taken in trade as a
25 partial payment for the purchased motor vehicle. The retail value of a motor vehicle for
26 which a certificate of title is issued because of a reason other than the sale of the motor
27 vehicle is the value of the vehicle set in a schedule of values adopted by the
28 Commissioner.

29 (c) In adopting a schedule of values for motor vehicles, the Commissioner shall
30 adopt a schedule whose values do not exceed the wholesale values of motor vehicles as
31 published in a recognized automotive reference manual."

32 Sec. 22. G.S. 105-164.3(8b) reads as rewritten:

33 "(8b) 'Motor vehicle' means any vehicle which is self-propelled and
34 designed primarily for use upon the highways, any vehicle which is
35 propelled by electric power obtained from trolley wires but not
36 operated upon rails, and any vehicle designed to run upon the
37 highways which is propelled by a self-propelled vehicle, but shall
38 not include any implement of husbandry, farm tractor, road
39 construction or maintenance machinery or equipment, special
40 mobile equipment as defined in G.S. 20-4.01, ~~or any vehicle~~
41 designed primarily for use in work off the highway—, or a
42 manufactured home."

1 Sec. 23. G.S. 105-164.3 is amended by redesignating subdivisions (8) and
2 (8a) as (7a) and (8), respectively, and by adding a new subdivision, to be inserted in that
3 section in its proper alphabetical order, to read as follows:

4 "(8a) 'Manufactured home' means a structure that is designed to be used
5 as a dwelling and:

- 6 a. Is built on a permanent chassis;
7 b. Is transportable in one or more sections;
8 c. When transported, is at least eight feet wide or 40 feet long; and
9 d. When erected on a site, has at least 320 square feet."

10 Sec. 24. G.S. 105-164.4 reads as rewritten:

11 **"§ 105-164.4. Imposition of tax; retailer. Tax imposed on retailers.**

12 ~~- There is hereby levied and imposed, in addition to all other taxes of every kind now~~
13 ~~imposed by law, a privilege or license tax upon every person who engages in the~~
14 ~~business of selling tangible personal property at retail, renting or furnishing tangible~~
15 ~~personal property or the renting and furnishing of rooms, lodgings and accommodations~~
16 ~~to transients, in this State, the same to be collected and the amount to be determined by~~
17 ~~the application of the following rates against gross sales and rentals, to wit:~~

- 18 ~~(1) At the rate of three percent (3%) of the sales price of each item or~~
19 ~~article of tangible property when sold at retail in this State, the tax~~
20 ~~to be computed on total net taxable sales as defined herein but for~~
21 ~~the purpose of computing the amount due the State each and every~~
22 ~~taxable retail sale, or retail sales upon which the tax has been~~
23 ~~collected, or the amount of tax actually collected, whichever be~~
24 ~~greater and whether or not erroneously collected, shall be included~~
25 ~~in the computation of tax due the State. Provided, however, that in~~
26 ~~the case of the sale of any aircraft, railway locomotive, railway car~~
27 ~~or the sale of any motor vehicle or boat, the tax shall be only at the~~
28 ~~rate of two percent (2%) of the sales price, but at no time shall the~~
29 ~~maximum tax with respect to any one such aircraft, railway~~
30 ~~locomotive, railway car or motor vehicle or boat, including all~~
31 ~~accessories attached thereto at the time of delivery thereof to the~~
32 ~~purchaser, be in excess of three hundred dollars (\$300.00).~~

33 ~~The separate sale of a new motor vehicle chassis and a new motor~~
34 ~~vehicle body to be installed thereon, whether by the same retailer or by~~
35 ~~different retailers shall be subject only to the tax herein prescribed with~~
36 ~~respect to a single motor vehicle. No tax shall be imposed upon a body~~
37 ~~mounted on the chassis of a motor vehicle which temporarily enters~~
38 ~~the State for the purpose of having such body mounted thereon by the~~
39 ~~manufacturer thereof.~~

40 ~~Notwithstanding G.S. 105-164.3(16) and regardless whether the~~
41 ~~seller is a retailer of motor vehicles, the sales price of a motor vehicle~~
42 ~~is the gross sales price of the motor vehicle less any allowance given~~
43 ~~for a motor vehicle taken in trade as part of the consideration for the~~
44 ~~purchased motor vehicle.~~

1 The tax levied under this section applies to all retail sales of motor
2 vehicles regardless whether the seller is engaged in business as a
3 retailer of motor vehicles or whether a tax on the sale of the vehicle
4 has previously been paid under this Article. A purchaser of a motor
5 vehicle from a retailer shall pay the tax imposed under this Article to
6 the retailer, who is liable for collecting and remitting the tax to the
7 Secretary. A purchaser of a motor vehicle is liable for payment of the
8 tax imposed by this Article if the seller is not a retailer. The purchaser
9 shall pay the tax to the Commissioner of Motor Vehicles when
10 applying for a certificate of title for the vehicle. When property is
11 transferred by an individual to a partnership or corporation, and no
12 gain or loss arises as provided by Section 351 or Section 721 of the
13 Code, such transfer is not a sale for the purpose of this subdivision if
14 the transfer is incident to the organization of the partnership or
15 corporation.

16 When applying for a certificate of title, a purchaser of a motor
17 vehicle from a seller who is not a retailer shall certify in writing the
18 sales price of the purchased motor vehicle. A purchaser who
19 knowingly makes a false certification of the sales price is guilty of a
20 misdemeanor.

21 The Commissioner of Motor Vehicles may not issue a certificate of
22 title for a motor vehicle sold by a seller who is not a retailer unless the
23 tax imposed by this section is paid when the purchaser of the vehicle
24 applies for a certificate of title. The Commissioner shall remit taxes
25 collected by him under this subsection to the Secretary.

26 Persons who lease or rent motor vehicles shall collect and remit the
27 tax imposed by this Article on the separate retail sale of a motor
28 vehicle in addition to the tax imposed on the proceeds from the lease
29 or rental of the motor vehicle.

30 (a) A privilege tax is imposed on a retailer at the following percentage rates
31 of the retailer's net taxable sales or gross receipts from the lease or rental of tangible
32 personal property, as appropriate:

33 (1) At the rate of three percent (3%) of the sales price of each item or
34 article of tangible personal property that is sold at retail and is not
35 subject to tax under another subdivision in this section.

36 (1a) At the rate of two percent (2%) of the sales price of each
37 manufactured home, aircraft, boat, railway car, or locomotive sold
38 at retail, including all accessories attached to the item when it is
39 delivered to the purchaser, not to exceed three hundred dollars
40 (\$300.00). Each section of a manufactured home that is
41 transported separately to the site where it is to be erected is a
42 separate article.

43 ~~Provided further, the tax shall be only at~~

1 (1b) At the rate of one percent (1%) of the sales price on the following
2 items:

- 3 a. Horses or mules by whomsoever sold.
4 b. Semen to be used in the artificial insemination of animals.
5 c. Sales of fuel, other than electricity or piped natural gas, to
6 farmers to be used by them for any farm purposes other than
7 preparing food, heating dwellings and other household
8 purposes. The quantity of fuel purchased or used at any one
9 time shall not in any manner be a determinative factor as to
10 whether any sale or use of fuel is or is not subject to the one
11 percent (1%) rate of tax imposed herein.
12 d. Sales of fuel, other than electricity or piped natural gas, to
13 manufacturing industries and manufacturing plants for use in
14 connection with the operation of such industries and plants
15 other than sales of fuels to be used for residential heating
16 purposes. The quantity of fuel purchased used at any one time
17 shall not in any manner be a determinative factor as to whether
18 any sale or use of fuel is or is not subject to the one percent
19 (1%) rate of tax imposed herein.
20 e. Sales of fuel, other than electricity or piped natural gas, to
21 commercial laundries or to pressing and dry-cleaning
22 establishments for use in machinery used in the direct
23 performance of the laundering or the pressing and cleaning
24 service.
25 f. Sales to freezer locker plants of wrapping paper, cartons and
26 supplies consumed directly in the operation of such plant.

27 ~~Provided further, the tax shall be only at~~

28 (1c) At the rate of one percent (1%) of the sales price, subject to a
29 maximum tax of eighty dollars (\$80.00) per article, on the
30 following items:

- 31 ~~g.~~ a. Sales of machines and machinery, whether animal or motor drawn
32 or operated, and parts and accessories for such machines and
33 machinery to farmers for use by them in the planting, cultivating,
34 harvesting or curing of farm crops, and sales of machines and
35 machinery and parts and accessories for such machines and machinery
36 to dairy operators, poultry farmers, egg producers, and livestock
37 farmers for use by them in the production of dairy products, poultry,
38 eggs or livestock, except such machines, machinery, equipment, parts,
39 and accessories that come within the provisions of G.S. 105-
40 164.13(4c).

41 The term 'machines and machinery' as used in this
42 subdivision is defined as follows:

43 The term shall include all vehicular implements, designed
44 and sold for any use defined in this subdivision, which are

1 operated, drawn or propelled by motor or animal power, but
2 shall not include vehicular implements which are operated
3 wholly by hand, and shall not include any motor vehicles
4 required to be registered under Chapter 20 of the General
5 Statutes.

6 The term shall include all nonvehicular implements and
7 mechanical devices designed and sold for any use defined in
8 this subdivision, which have moving parts, or which require the
9 use of any motor or animal power, fuel, or electricity in their
10 operation but shall not include nonvehicular implements which
11 have no moving parts and are operated wholly by hand.

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

15 ~~h.~~ b. Sales of mill machinery or mill machinery parts and accessories to
16 manufacturing industries and plants, and sales to contractors and
17 subcontractors purchasing mill machinery or mill machinery parts and
18 accessories for use by them in the performance of contracts with
19 manufacturing industries and plants, and sales to subcontractors
20 purchasing mill machinery or mill machinery parts and accessories for
21 use by them in the performance of contracts with general contractors
22 who have contracts with manufacturing industries and plants. As used
23 in this paragraph, the term 'manufacturing industries and plants' does
24 not include delicatessens, cafes, cafeterias, restaurants, and other
25 similar retailers that are principally engaged in the retail sale of foods
26 prepared by them for consumption on or off their premises.

27 ~~i.~~ c. Sales of central office equipment and switchboard and private
28 branch exchange equipment to telephone companies regularly engaged
29 in providing telephone service to subscribers on a commercial basis,
30 and sales to these companies of prewritten computer programs used in
31 providing telephone service to their subscribers.

32 ~~j.~~ d. Sales to commercial laundries or to pressing and dry cleaning
33 establishments of machinery used in the direct performance of the
34 laundering or the pressing and cleaning service and of parts and
35 accessories thereto.

36 ~~k.~~ e. Sales to freezer locker plants of machinery used in the direct
37 operation of said freezer locker plant and of parts and accessories
38 thereto.

39 ~~l.~~ f. Sales of broadcasting equipment and parts and accessories thereto
40 and towers to commercial radio and television companies which are
41 under the regulation and supervision of the Federal Communications
42 Commission.

1 m. g. Sales to farmers of bulk tobacco barns and racks and all parts and
2 accessories thereto and similar apparatus used for the curing and
3 drying of any farm produce.

4 n. ~~Repealed by Session Laws 1983, c. 805, s. 2, effective July 1,~~
5 ~~1983.~~

6 o. h. Sales to farmers of grain, feed or soybean storage facilities and
7 accessories thereto, whether or not dryers are attached, and all similar
8 apparatus and accessories thereto for the storage of grain, feed or
9 soybeans.

10 p. ~~Repealed by Session Laws 1983, c. 805, s. 2, effective July 1,~~
11 ~~1983.~~

12 q. i. Sales of containers to farmers or producers for use in the planting,
13 producing, harvesting, curing, marketing, packaging, sale, or
14 transporting or delivery of their products when such containers do not
15 go with and become part of the sale of their products at wholesale or
16 retail.

17 (2) ~~At the rate of three percent (3%) of the gross proceeds derived~~
18 ~~from the lease or rental of tangible personal property as defined~~
19 ~~herein, where the lease or rental of such property is an established~~
20 ~~business, or the same is incidental or germane to said business;~~
21 ~~except that whenever a rate of less than three percent (3%) is~~
22 ~~applicable to a sale of property which is leased or rented, the lower~~
23 ~~rate of tax shall be due on such lease or rental proceeds. applicable~~
24 ~~percentage rate of the gross receipts derived by a retailer who is~~
25 ~~engaged in the business of leasing or renting tangible personal~~
26 ~~property or leases or rents property of the type sold by the retailer.~~
27 ~~The applicable percentage rate is the rate and the maximum tax, if~~
28 ~~any, that applies to a sale of the property that is leased or rented. A~~
29 ~~person who leases or rents property shall also collect the tax~~
30 ~~imposed by this section on the separate retail sale of the property.~~

31 (3) Operators of hotels, motels, tourist homes, tourist camps, and
32 similar type businesses and persons who rent private residences and
33 cottages to transients are considered retailers under this Article.
34 There is levied upon every such retailer a tax of three percent (3%)
35 of the gross receipts derived from the rental of any room or rooms,
36 lodgings, or accommodations furnished to transients for a
37 consideration. This tax does not apply to any private residence or
38 cottage that is rented for less than 15 days in a calendar year or to
39 any room, lodging, or accommodation supplied to the same person
40 for a period of 90 or more continuous days.

41 As used in this subdivision, the term 'persons who rent to
42 transients' means (i) owners of private residences and cottages who
43 rent to transients and (ii) rental agents, including 'real estate brokers'
44 as defined in G.S. 93A-2, who rent private residences and cottages to

1 transients on behalf of the owners. If a rental agent is liable for the tax
2 imposed by this subdivision, the owner is not liable.

3 (4) Every person, firm or corporation engaged in the business of
4 operating a pressing club, cleaning plant, hat-blocking
5 establishment, dry-cleaning plant, laundry (including wet or damp
6 wash laundries and businesses known as launderettes and
7 launderalls), or any similar-type business, or engaged in the
8 business of renting clean linen or towels or wearing apparel, or any
9 similar-type business, or engaged in the business of soliciting
10 cleaning, pressing, hat blocking, laundering or rental business for
11 any of the aforementioned businesses, shall be considered 'retailers' for
12 the purposes of this Article. There is hereby levied upon every such
13 person, firm or corporation a tax of three percent (3%) of the gross
14 receipts derived from services rendered in engaging in any of the
15 occupations or businesses named in this subdivision, and every
16 person, firm or corporation subject to the provisions of this
17 subdivision shall register and secure a license in the manner
18 hereinafter provided in this section, and, insofar as practicable, all
19 other provisions of this Article shall be applicable with respect to
20 the tax herein provided for. The tax imposed by this subdivision
21 does not apply to receipts derived from coin or token-operated
22 washing machines, extractors, and dryers. The taxes levied in this
23 subdivision are additional privilege or license taxes for the
24 privilege of engaging in the occupations or businesses named
25 herein. Any person, firm or corporation engaged in cleaning,
26 pressing, hat blocking, laundering for, or supplying clean linen or
27 towels or wearing apparel to, another person, firm or corporation
28 engaged in soliciting shall not be required to pay the three percent
29 (3%) tax on its gross receipts derived through such solicitor, if the
30 soliciting person, firm or corporation has registered with the
31 Department, secured the license hereinafter required and has paid
32 the tax at the rate of three percent (3%) of the total gross receipts
33 derived from business solicited.

34 (4a) At the rate of three percent (3%) of the gross receipts derived by a
35 utility from sales of electricity, piped natural gas, or local
36 telecommunications service as defined by G.S. 105-120(a). A
37 person who operates a utility is considered a retailer under this
38 Article.

39 (4b) A person who sells tangible personal property at a flea market,
40 other than his own household personal property, is considered a
41 retailer under this Article. A tax is levied on that person at the rate
42 of three percent (3%) of the sales price of each article sold by him
43 at the flea market. A person who leases or rents space at a flea
44 market may not lease or rent this space unless the retailer

1 requesting to rent or lease the space furnishes evidence that he has
2 obtained the license required by this Article. A person who leases
3 or rents space at a flea market shall keep records of retailers to
4 whom he has leased or rented space at the market. As used in this
5 subdivision, the term "flea market" means a place where space is
6 rented to a person for the purpose of selling tangible personal
7 property.

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

17 (b)-(5) The said tax shall be collected from the retailer as defined herein and paid by
18 him at the time and in the manner as hereinafter provided. Provided, however, that any
19 person engaging or continuing in business as a retailer shall pay the tax required on the
20 net taxable sales of such business at the rates specified when proper books are kept
21 showing separately the gross proceeds of taxable and nontaxable sales of tangible
22 personal property in such form as may be accurately and conveniently checked by the
23 Secretary or his duly authorized agent. If such records are not kept separately the tax
24 shall be paid as a retailer on the gross sales of business and the exemptions and
25 exclusions provided by this Article shall not be allowed.

26 (6) The tax so levied is and shall be in addition to all other taxes whether levied in the
27 form of excise, license or privilege or other taxes.

28 (c)-(7) Any person who shall engage or continue in any business for which a
29 privilege tax is imposed by this Article shall immediately after July 1, 1979, apply for
30 and obtain from the Secretary upon payment of the sum of five dollars (\$5.00) a license
31 to engage in and conduct such business upon the condition that such person shall pay
32 the tax accruing to the State of North Carolina under the provisions of this Article and
33 he shall thereby be duly licensed and registered to engage in and conduct such business.
34 Except as hereinafter provided, a license issued under this subsection shall be a
35 continuing license until revoked for failure to comply with the provisions of this Article.
36 However, any person who has heretofore applied for and obtained such license, and
37 such license was in force and effect as of July 1, 1979, shall not be required to apply for
38 and obtain a new license.

39 Any person who shall cease to be engaged in any business for which a privilege tax
40 is imposed by this Article, and who shall remain continuously out of business for a
41 period of five years shall apply for and obtain a new license from the Secretary upon
42 the payment of a tax of five dollars (\$5.00), and any license previously issued under
43 this section shall be null, void and of no effect. The burden of proof after such period

1 shall be upon the taxpayer to show that he did engage in such activity within the period,
2 and that no new license is required.

3 A retailer who sells tangible personal property at a flea market shall conspicuously
4 display his sales tax license when making sales at the flea market."

5 Sec. 25. G.S. 105-164.6 reads as rewritten:

6 **"§ 105-164.6. Imposition of tax.**

7 ~~An excise tax is hereby levied and imposed on the storage, use or consumption in~~
8 ~~this State of tangible personal property purchased within and without this State for~~
9 ~~storage, use or consumption in this State, the same to be collected and the amount to be~~
10 ~~determined by the application of the following rates:~~

11 (1) ~~At the rate of three percent (3%) of the cost price of each item or~~
12 ~~article of tangible personal property when the same is not sold but~~
13 ~~used, consumed, distributed or stored for use or consumption in~~
14 ~~this State; except that, whenever a rate of less than three percent~~
15 ~~(3%) is applicable under the sales tax schedule set out in G.S. 105-~~
16 ~~164.4 to the sale at retail of an item or article of tangible personal~~
17 ~~property, the same rate, and maximum tax if any, shall be used in~~
18 ~~computing any use tax due under this subdivision. The separate~~
19 ~~sale of a new motor vehicle chassis and a new motor vehicle body~~
20 ~~to be installed thereon, whether by the same retailer or by different~~
21 ~~retailers, shall be subject only to the tax herein prescribed with~~
22 ~~respect to a single motor vehicle.~~

23 (a) An excise tax at the following percentage rates is imposed on the storage, use,
24 or consumption in this State of tangible personal property purchased inside or outside
25 the State for storage, use, or consumption in the State:

26 (1) At the applicable percentage rate of the cost price of each item or
27 article or tangible personal property that is stored, used, or
28 consumed in this State. The applicable percentage rate is the rate
29 and the maximum tax, if any, that applies to a sale of the property
30 that is stored, used, or consumed.

31 (2) ~~At the rate of three percent (3%) of the monthly lease or rental~~
32 ~~price paid by the lessee or rentee, or contracted or agreed to be paid~~
33 ~~by the lessee or rentee, to the owner of the tangible personal~~
34 ~~property; except that, whenever a rate of less than three percent~~
35 ~~(3%) is applicable under the sales tax schedule set out in G.S. 105-~~
36 ~~164.4 to the sale at retail of an item or article of tangible personal~~
37 ~~property, then the same rate, and maximum tax if any, shall be used~~
38 ~~in computing any use tax due under this subdivision. applicable~~
39 ~~percentage rate of the monthly lease or rental price paid,~~
40 ~~contracted, or agreed to be paid by the lessee or rentee to the owner~~
41 ~~of tangible personal property that is stored, used, or consumed in~~
42 ~~this State. The applicable percentage rate is the rate and the~~
43 ~~maximum tax, if any, that applies to a sale of the property that is~~
44 ~~stored, used, or consumed.~~

1 ~~(b)-(3)~~ There is hereby levied and there shall be collected from every person, firm, or
2 corporation, an excise tax of three percent (3%) of the purchase price of all tangible
3 personal property purchased or used which shall enter into or become a part of any
4 building or other kind of structure in this State, including all materials, supplies, fixtures
5 and equipment of every kind and description which shall be annexed thereto or in any
6 manner become a part thereof. Said tax shall be levied against the purchaser of such
7 property. Provided, that where the purchaser is a contractor, the contractor and owner
8 shall be jointly and severally liable for said tax, but the liability of the owner shall be
9 deemed satisfied if before final settlement between them the contractor furnishes to the
10 owner an affidavit certifying that said tax has been paid. Provided further, that where
11 the purchaser is a subcontractor, the contractor and subcontractor shall be jointly and
12 severally liable for said tax, but the liability of the contractor shall be deemed satisfied
13 if before final settlement between them the subcontractor furnishes to the contractor an
14 affidavit certifying that said tax has been paid.

15 ~~(3a) Every person, firm, or corporation that purchases or acquires a~~
16 ~~motor vehicle shall pay a tax at the rate of two percent (2%) of the~~
17 ~~sales price of the vehicle, not to exceed three hundred dollars~~
18 ~~(\$300.00) per vehicle. This tax shall be paid to the Commissioner~~
19 ~~of Motor Vehicles when applying for a certificate of title or~~
20 ~~registration plate for the vehicle. A purchaser who furnishes to the~~
21 ~~Commissioner of Motor Vehicles a certificate from a retailer of~~
22 ~~motor vehicles engaged in business in this State stating that the~~
23 ~~purchaser has paid the tax levied on the vehicle by this Article to~~
24 ~~the retailer is relieved of liability for the tax. No certificate of title,~~
25 ~~or registration and license plate or plates shall be issued for any~~
26 ~~motor vehicle purchased or acquired for use on the streets and~~
27 ~~highways of this State unless and until the tax provided for under~~
28 ~~this Article on motor vehicles has been paid. Nothing herein is~~
29 ~~intended to relieve any retailer of motor vehicles engaged in~~
30 ~~business in this State from his liability for collecting and remitting~~
31 ~~sales or use tax on his sales of motor vehicles for use by the~~
32 ~~purchasers thereof in this State and no retailer shall be absolved of~~
33 ~~this liability for his failure to collect the tax from such purchasers.~~
34 ~~The Commissioner of Motor Vehicles shall remit use taxes~~
35 ~~collected by him under this subdivision to the Secretary.~~

36 ~~The tax levied under this section applies to all owners of motor~~
37 ~~vehicles, regardless whether the owner purchased or acquired the~~
38 ~~vehicle from a retailer of motor vehicles and regardless whether a tax~~
39 ~~has previously been paid under this Article with respect to the vehicle.~~

40 ~~An owner of a motor vehicle acquired from a seller who is not a~~
41 ~~retailer shall certify the sales price of the vehicle as provided in G.S.~~
42 ~~105-164.4(1).~~

43 ~~Persons who lease or rent motor vehicles shall collect and remit the~~
44 ~~tax imposed by this Article on the separate retail sale of a motor~~

1 ~~vehicle in addition to the tax imposed on the proceeds from the lease~~
2 ~~or rental of the motor vehicle.~~

3 (c)-(4) Where a retail sales tax has already been paid with respect to said tangible
4 personal property in this State by the purchaser thereof, said tax shall be credited upon
5 the tax imposed by this Part. Where a retail sales and use tax is due and has been paid
6 with respect to said tangible personal property in another state by the purchaser thereof
7 for storage, use or consumption in this State, said tax shall be credited upon the tax
8 imposed by this Part. If the amount of tax paid to another state is less than the amount of
9 tax imposed by this Part, the purchaser shall pay to the Secretary an amount sufficient to
10 make the tax paid to the other state and this State equal to the amount imposed by this
11 Part. The Secretary of Revenue shall require such proof of payment of tax to another
12 state as he deems to be necessary and proper. No credit shall be given under this
13 subdivision for sales or use taxes paid in another state if that state does not grant similar
14 credit for sales taxes paid in North Carolina.

15 (d)-(5) Every person storing, using or otherwise consuming in this State tangible
16 personal property purchased or received at retail either within or without this State shall
17 be liable for the tax imposed by this Article and the liability shall not be extinguished
18 until the tax has been paid to this State. Provided, however, that a receipt from a
19 registered retailer engaged in business in this State given to the purchaser in accordance
20 with the provisions of this Article shall be **prima facie** sufficient to relieve the
21 purchaser from liability for the tax to which such receipt may refer and the liability of
22 the purchaser shall be extinguished upon payment of the tax by any retailer from whom
23 he has purchased said property.

24 (e)-(6) Except as provided herein the tax so levied is and shall be in addition to all
25 other taxes whether levied in the form of excise, license, privilege or other taxes.

26 (f)-(7) Every retailer engaged in business in this State selling or delivering tangible
27 personal property for storage, use or consumption in this State shall immediately after
28 July 1, 1979, apply for and obtain from the Secretary upon the payment of the sum of
29 five dollars (\$5.00) a license to engage in and conduct such business upon the condition
30 that such person shall pay the tax accruing to the State of North Carolina under the
31 provisions of this Article, and he shall thereby be duly licensed and registered to engage
32 in and conduct such business. Except as hereinafter provided, a license issued under this
33 subsection shall be a continuing license until revoked for failure to comply with the
34 provisions of this Article. However, any person who has heretofore applied for and
35 obtained such license, and such license was in force and effect as of July 1, 1979, shall
36 not be required to apply for and obtain a new license.

37 Any person who shall cease to be engaged in any business for which a tax is
38 imposed by this Article, and who shall remain continuously out of business for a period
39 of five years shall apply for and obtain a new license from the Secretary upon the
40 payment of a tax of five dollars (\$5.00), and any license previously issued under this
41 section shall be null, void and of no effect. The burden of proof after such period shall
42 be upon the taxpayer to show that he did engage in such activity within the period, and
43 that no new license is required.

1 (g)–(8) Notwithstanding any other provisions of this Article, a use tax, at the
2 applicable use tax rate, as hereinbefore provided, is hereby levied upon the storage or
3 use in this State of any motor vehicles, machines, machinery, tools or other equipment
4 brought, imported or caused to be brought into this State for use in constructing,
5 building or repairing any building, highway, street, sidewalk, bridge, culvert, sewer or
6 water system, drainage or dredging system, railway system, reservoir or dam, hydraulic
7 or power plant, transmission line, tower, dock, wharf, excavation, grading or other
8 improvement or structure, or any part thereof. The owner or, if the property is leased the
9 lessee of any such motor vehicle, machine, machinery, tools or other equipment shall be
10 liable for the tax provided for in this paragraph, to be computed as set out below. The
11 useful life of such motor vehicles, machines, tools or other equipment shall be
12 determined by the Secretary in accordance with the experience and practices of the
13 building and construction trades. Said use tax shall be computed on the basis of such
14 proportion of the original purchase price of such property as the duration of time of use
15 in this State bears to the total useful life thereof. Such tax shall become due immediately
16 upon such property being brought into this State, and in the absence of satisfactory
17 evidence as to the period of use intended in this State, it shall be presumed that such
18 property will remain in this State for the remainder of its useful life.

19 A credit is allowed against the tax imposed on the use of property under this
20 subsection for any retail sales or use tax paid on the property to another state. The
21 amount of the credit allowed is the proportion of the sales or use tax paid as the time of
22 use in this State bears to the total useful life of the property. A credit is also allowed
23 against the local use taxes imposed in this State for any local retail sales or use tax paid
24 on the property to a locality in another state. The amount of the credit allowed is the
25 proportion of the local sales or use tax paid as the time of use in this State bears to the
26 total useful life of the property. No credit is allowed, however, if the state to which, or
27 in which a locality to which, a retail sales or use tax was paid does not allow a similar
28 credit or grant an exemption for property brought into that state from this State. All
29 provisions of this Article not directly in conflict with the provisions of this paragraph shall be
30 applicable with respect to the matters herein set forth. The provisions of this paragraph shall not
31 be applicable with respect to sales of such property within this State or to the use, storage or
32 consumption of such property when purchased for use in this State, and in such cases the full
33 sales or use tax shall be paid as in all other cases, irrespective of the period of intended use in
34 this State.

35 This subsection does not apply to sales of property in this State or to the use, storage,
36 or consumption of property when purchased for use in this State. In these cases, the full
37 sales or use tax, or the privilege tax levied by Article 5A of this Chapter, as appropriate,
38 shall be paid. For purposes of this subsection, the use tax rate of tax on a motor vehicle
39 is considered to be three percent (3%), not to exceed the maximum tax set in G.S. 105-
40 167(a). All provisions of this Article, including the administrative provisions, apply to
41 the tax imposed by this subsection unless they directly conflict with this subsection."

42 Sec. 26. G.S. 105-164.13(16) reads as rewritten:

43 "(16) Sales of used articles ~~other than motor vehicles~~ taken in trade, or a
44 series of trades, as a credit or part payment on the sale of a new
45 article, ~~provided the tax levied in this Article is paid on the gross~~

1 sales price of the new article. In the interpretation of this
2 subsection, new article shall be taken to mean article. 'New article'
3 means the original stock in trade of the merchant, and shall is not
4 be limited to newly manufactured articles. The resale of articles
5 other than motor vehicles repossessed by the vendor shall likewise
6 be exempt from gross sales taxable under this Article."

7 Sec. 27. G.S. 105-164.13(32) reads as rewritten:

8 "(32) Sales of motor vehicles, as defined in G.S. 105-164.3(8a) to
9 nonresident purchasers for immediate transportation to and use in
10 another state in which such vehicles are required to be registered,
11 provided the seller obtains from the purchaser and furnishes to the
12 Secretary of Revenue an affidavit stating the name and address of
13 the purchaser, the state in which the vehicle will be registered and
14 operated, the make, model, and serial number of the vehicle, and
15 such other information as the Secretary may require, and provided
16 further that an exemption shall be allowed unless the affidavit is
17 filed with the seller's sales and use tax report for the month during
18 which the sale is made and such report is timely filed. For sales
19 made by a seller who is not a retailer, this exemption applies if the
20 purchaser furnishes the Secretary an affidavit containing the
21 information otherwise required from a retailer within 45 days of the
22 date of the sale. vehicles, and sales of motor vehicle bodies that are
23 to be mounted on motor vehicle chassis."

24 PART IV

25 MOTOR FUEL TAX INCREASE

26 Sec. 28. G.S. 105-434(a) reads as rewritten:

27 "(a) Tax. – An excise tax is levied on motor fuel sold, distributed, or used by a
28 distributor within this State at the rate of fourteen cents (14¢) per gallon plus three
29 percent (3%) of the average wholesale price of motor fuel, as determined semiannually
30 by the Secretary of Revenue from a flat rate of seventeen cents (17¢) per gallon, plus a
31 variable rate of either three and one-half cents (3 1/2¢) per gallon or seven percent (7%)
32 of the average wholesale price of motor fuel for the applicable base period, whichever is
33 greater. The Secretary of Revenue shall semiannually determine the average wholesale
34 price of motor fuel using information on refiner and gas plant operator sales prices of
35 finished motor gasoline and No. 2 diesel fuel for resale, published by the United States
36 Department of Energy in the 'Monthly Energy Review,' or on equivalent data. The
37 Secretary shall determine the average wholesale price of motor fuel by computing the
38 average sales price of finished motor gasoline for the base period, computing the
39 average sales price for No. 2 diesel fuel for the base period, and then computing a
40 weighted average of the results of the first two computations based on the proportion of
41 tax collected under this Article on motor fuel and Article 36A on fuel for the base
42 period. The Secretary shall notify affected taxpayers of the tax rate to be in effect for
43 each six-month period beginning January 1 and July 1.

1 To facilitate ~~collection-administration~~ of the motor fuel tax, the Secretary shall
 2 convert the ~~percentage rate-wholesale percentage~~ component to a cents-per-gallon rate to
 3 be in effect during the six-month period beginning each January 1 and July 1. The rate to be in
 4 effect ~~during~~ for the six-month period beginning January 1 shall be computed from data
 5 published for the six-month base period ending on the preceding September 30, and the
 6 rate to be in effect ~~during~~ for the six-month period beginning July 1 shall be computed
 7 from data published for the six-month base period ending on the preceding March 31.
 8 The cents-per-gallon rate computed by the Secretary shall be rounded to the nearest
 9 one-tenth of a cent (1/10¢). If the cents-per-gallon rate computed by the Secretary is
 10 exactly between two tenths of a cent, the rate shall be rounded up to the higher of the
 11 two."

12 Sec. 29. G.S. 105-446 reads as rewritten:

13 **"§ 105-446. Refund for tax on motor fuel used other than to propel a motor vehicle.**

14 A person who purchases and uses motor fuel for a purpose other than to operate a
 15 licensed motor vehicle may receive an annual refund, for the tax paid during the
 16 preceding calendar year, at a rate equal to ~~fourteen cents (14¢) per gallon plus the average~~
 17 ~~of the two wholesale cents per gallon rates of tax in effect during the year for which refund is~~
 18 ~~claimed, the amount of the flat cents-per-gallon rate in effect during the year for which~~
 19 the refund is claimed plus the average of the two variable cents-per-gallon rates in effect
 20 during that year, less one cent (1¢) per gallon. An application for a refund allowed
 21 under this section shall be made in accordance with G.S. 105-440."

22 Sec. 30. G.S. 105-446.1 reads as rewritten:

23 **"§ 105-446.1. ~~Refunds of taxes paid by counties and municipalities.~~ Refund of tax paid**
 24 **on motor fuel by certain governmental entities and nonprofit**
 25 **organizations.**

26 The following entities shall be entitled to reimbursement for the tax levied by G.S.
 27 105-434 ~~upon filing a statement in writing with the Secretary of Revenue, which~~
 28 ~~statement shall be made upon the oath or affirmation of the chief executive officer of~~
 29 ~~said entity, showing the number of gallons of fuel purchased and used by said entity on~~
 30 ~~which the tax levied by G.S. 105-434 has been paid: the Board of Transportation,~~
 31 ~~counties, municipal corporations, volunteer fire departments, county fire departments,~~
 32 ~~volunteer rescue squads, and "sheltered workshop" organizations recognized and~~
 33 ~~approved by the Department of Human Resources. "Chief executive officer" shall mean~~
 34 ~~the Director of Highways, the mayor, city manager or other municipal officer~~
 35 ~~designated by the governing body of the municipality, the chairman of the board of~~
 36 ~~county commissioners or other county officer designated by the board of county~~
 37 ~~commissioners, or the president or other duly designated officer or agent of a volunteer~~
 38 ~~fire department, county fire department, volunteer rescue squad or "sheltered~~
 39 ~~workshop" organization. Reimbursement shall be at a rate equal to fourteen cents (14¢)~~
 40 ~~per gallon plus the wholesale cents per gallon rate of tax in effect during the quarter for~~
 41 ~~which the refund is claimed, less one cent (1¢) per gallon. An application for a refund~~
 42 ~~under this section shall be made in accordance with G.S. 105-440.~~

43 (a) A governmental entity or a nonprofit organization listed below that
 44 purchases and uses motor fuel may receive a quarterly refund, for the tax paid during

1 the preceding quarter, at a rate equal to the amount of the flat cents-per-gallon rate plus
2 the variable cents-per-gallon rate in effect during the quarter for which the refund is
3 claimed, less one cent (1¢) per gallon. The following entities may receive a refund
4 under this section:

- 5 (1) The Department of Transportation;
- 6 (2) A county or a municipal corporation;
- 7 (3) A private, nonprofit organization that transports passengers under
8 contract with or at the express designation of a unit of local
9 government;
- 10 (4) A volunteer fire department;
- 11 (5) A volunteer rescue squad;
- 12 (6) A sheltered workshop recognized by the Department of Human
13 Resources.

14 (b) An application for a refund allowed under this section must be made in
15 accordance with G.S. 105-440 and must be signed by the chief executive officer of the
16 entity. The chief executive officer of the Department of Transportation is the Secretary
17 of Transportation. The chief executive officer of a county or municipal corporation is
18 the officer designated by the governing body of the county or municipal corporation,
19 such as the chair of a board of county commissioners or the mayor of a city. The chief
20 executive officer of a nonprofit organization is the president of the organization or
21 another officer of the organization designated in the charter or by-laws of the
22 organization."

23 Sec. 31. G.S. 105-446.3 reads as rewritten:

24 "**§ 105-446.3. Refund of taxes paid on motor fuels used in operation of motor buses**
25 **transporting fare city transit system, in operation of a taxicab**
26 **transporting fareatransportation services. Refund of tax paid on motor**
27 **fuel used to operate a taxicab or transit system bus.**

28 (a) ~~Any person, association, firm or corporation, who shall purchase any motor~~
29 ~~fuels, as defined in this Article, for the purpose of use, and the same is actually used, in~~
30 ~~the operation of motor buses transporting fare paying passengers, in connection with a~~
31 ~~city transit system or in the operation of a taxicab transporting fare paying passengers,~~
32 ~~both as hereinafter defined in subsection (b) of this section, or in the operation, by~~
33 ~~private nonprofit organizations, of motor vehicles transporting passengers under~~
34 ~~contract with or at the express designation of units of local government (such~~
35 ~~transportation above and hereinafter referred to as private nonprofit transportation~~
36 ~~services) shall be entitled to reimbursement for the tax levied by this Article upon filing~~
37 ~~with the Secretary of Revenue an application upon the oath or affirmation of the~~
38 ~~applicant or his agent showing the number of gallons of motor fuel so purchased and~~
39 ~~used. Reimbursement shall be at a rate equal to fourteen cents (14¢) per gallon plus the~~
40 ~~wholesale cents per gallon rate of tax in effect during the quarter for which the refund is~~
41 ~~claimed, less one cent (1¢) per gallon. An application for a refund allowed under this~~
42 ~~section shall be made in accordance with G.S. 105-440.~~

43 (b) ~~For the purposes of this section the term "city transit system" means a system~~
44 ~~of mass public transportation authorized to operate within any municipality or within~~

1 contiguous municipalities and within a zone adjacent to and commercially a part of such
 2 municipality or contiguous municipalities as defined by the North Carolina Utilities
 3 Commission under the provisions of G.S. 62-260. Any person, association, firm or
 4 corporation, who, in addition to the operation of a city transit system as herein defined,
 5 holds a certificate from the North Carolina Utilities Commission for operations outside
 6 of the municipal limits and adjacent commercial zones or who conducts exempt
 7 operations outside of the municipal limits or adjacent commercial zones shall be entitled
 8 to the refund provided by this section only on taxes levied upon motor fuels actually
 9 used in the operation of the city transit system. For the purposes of this section the term
 10 "taxicab" shall mean a taxicab as defined in G.S. 20-87(1); provided, however, that a
 11 city transit system as defined herein shall not include limousine operations.

12 A person who purchases and uses motor fuel in a taxicab, as defined in G.S. 20-
 13 87(1), or in a bus operated as part of a city transit system that is exempt from regulation
 14 by the North Carolina Utilities Commission under G.S. 62-260(8) may receive a
 15 quarterly refund, for the tax paid during the preceding quarter, at a rate equal to the flat
 16 cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter
 17 for which the refund is claimed, less one cent (1¢) per gallon. An application for a
 18 refund must be made in accordance with G.S. 105-440."

19 Sec. 32. G.S. 105-446.5 reads as rewritten:

20 "**§ 105-446.5. Refund of taxes paid on motor fuel used by concrete mixing vehicles,**
 21 **solid waste compacting vehicles, and certain agricultural vehicles.**

22 (a) Refund:

23 A person who purchases and uses motor fuel in one of the vehicles listed below may
 24 receive a refund for the amount of fuel consumed by the vehicle:

- 25 (1) A concrete mixing vehicle;
- 26 (2) A solid waste compacting vehicle;
- 27 (3) A bulk feed vehicle that delivers feed to poultry or livestock and
 28 uses a power take-off to unload the feed; and
- 29 (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a
 30 power take-off to unload the lime or fertilizer.

31 The refund rate shall be computed by subtracting one cent (1¢) from ~~fourteen cents~~
 32 ~~(14¢) per gallon plus the average of the two wholesale cents per gallon rates of tax in~~
 33 ~~effect during the year for which the refund is claimed, the combined amount of the flat~~
 34 cents-per-gallon rate in effect during the year for which the refund is claimed and the
 35 average of the two variable cents-per-gallon rates in effect during that year, and
 36 multiplying the difference by thirty-three and one-third percent (33 1/3%). An
 37 application for a refund allowed under this section shall be made in accordance with
 38 G.S. 105-440. This refund is allowed for the amount of fuel consumed by the vehicle in
 39 its mixing, compacting, or unloading operations, as distinguished from propelling the
 40 vehicle, which amount is considered to be one-third of the amount of fuel consumed by
 41 the vehicle."

42 Sec. 33. G.S. 105-446.6 reads as rewritten:

43 "**§ 105-446.6. Refund on taxpaid motor fuel transported to another state.**

1 Upon application to the Secretary, any person, ~~association or corporation~~ who
2 purchases motor fuel upon which the tax imposed by this Article has been paid, and
3 who transports the fuel to another state for sale or use in that state, may be reimbursed at
4 a rate equal to fourteen cents (14¢) per gallon plus the wholesale cents-per-gallon rate of the
5 rate of tax paid on the fuel, less one cent (1¢) per gallon. The refund application shall
6 require the claimant to furnish evidence satisfactory to the Secretary that the motor fuel
7 for which the refund is claimed has been reported for taxation in the state to which it
8 was transported. As used in this section, to 'transport' means to carry motor fuel in a
9 cargo tank, tank car, barge or barrel and does not include carrying fuel in a tank
10 connected with or attached to the engine of a motor vehicle."

11 Sec. 34. G.S. 105-449.39 reads as rewritten:

12 "**§ 105-449.39. Credit for payment of motor fuel tax.**

13 Every motor carrier subject to the tax levied by this Article is entitled to a credit for
14 tax paid by the carrier on fuel purchased in the State. ~~The credit shall be allowed at a rate~~
15 ~~equal to fourteen cents (14¢) per gallon plus the wholesale~~ at a rate equal to the flat cents-
16 per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter
17 for which the credit is claimed. Evidence of the payment of such tax in such form as may be
18 required by, or is satisfactory to, the Secretary shall be furnished by each such carrier claiming
19 the credit herein allowed. When the amount of the credit herein provided to which any motor
20 carrier is entitled for any quarter exceeds the amount of the tax for which such carrier is liable
21 for the same quarter, such excess may under regulations of the Secretary be allowed as a credit
22 on the tax for which such carrier would be otherwise liable for another quarter or quarters; or
23 upon application duly verified and presented in accordance with regulations promulgated by
24 the Secretary and supported by such evidence as may be satisfactory to the Secretary, such
25 excess may be refunded to said motor carrier.

26 ~~Unless the Secretary of Revenue exercises his discretion as hereinafter provided, or~~
27 ~~as provided in G.S. 105-449.40, he shall allow such refund only after an audit of the~~
28 ~~applicant's records. However, he may, in his sole discretion, make refunds without prior~~
29 ~~audit or without having been furnished a bond pursuant to G.S. 105-449.40 if the motor~~
30 ~~carrier has complied with the provisions of this Subchapter and rules and regulations~~
31 ~~promulgated thereunder for a period of one full prior registration year. To obtain this~~
32 ~~credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax~~
33 ~~for which the credit is claimed has been paid.~~

34 If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the
35 motor carrier's liability for that quarter, the excess may, in accordance with rules
36 adopted by the Secretary, be refunded to the motor carrier or carried forward and
37 applied to the motor carrier's tax liability for another quarter. The Secretary may not
38 allow a refund without auditing the motor carrier's records unless the motor carrier:

- 39 (1) Has furnished a bond under G.S. 105-449.40; or
40 (2) Has complied with this Subchapter and the rules adopted under the
41 Subchapter for at least a one-year period preceding the date the
42 application for a refund is filed."

43 Sec. 35. July 1, 1989, Inventory of Motor Fuel. Every distributor of motor
44 fuel, both at wholesale and at retail, must inventory all motor fuel on hand or in his
45 possession as of 12:01 a.m., July 1, 1989, and, on or before August 1, 1989, must report

1 to the Secretary of Revenue the amount of the motor fuel. When filing the report, the
2 distributor must remit to the Secretary of Revenue an additional tax on the motor fuel of
3 three cents (3¢) per gallon plus an amount equal to the increase in the tax based on the
4 increase in the variable cents-per-gallon tax effective July 1, 1989. The report required
5 must be in a form prescribed by the Secretary.

6 Sec. 36. July 1, 1989, Inventory of Special Fuel. Every supplier or reseller of
7 special fuel must inventory all special fuel on hand or in his possession as of 12:01 a.m.,
8 July 1, 1989, and, on or before August 1, 1989, must report to the Secretary of Revenue
9 the amount of the special fuel. When filing the report, the supplier or reseller must
10 remit to the Secretary of Revenue an additional tax on the special fuel of three cents
11 (3¢) per gallon plus an amount equal to the increase in the tax based on the increase in
12 the variable cents-per-gallon tax effective July 1, 1989. The report required must be in
13 a form prescribed by the Secretary.

14 Sec. 37. Motor Carrier Refund. Notwithstanding G.S. 105-449.39 to the
15 contrary, a motor carrier that as of 12:01 a.m. on July 1, 1989, has on hand or in its
16 possession motor fuel or special fuel upon which it has paid the tax in effect on June 30,
17 1989, is allowed a credit of only the amount of tax paid on the fuel when filing the
18 report required by G.S. 105-449.45.

19 Sec. 38. Annual Refund Rate. Notwithstanding G.S. 105-446, 105-446.5,
20 and 105-449.24 to the contrary, the annual refund rate for tax paid on motor fuel or
21 special fuel for calendar year 1989 is at a rate equal to the average of the two flat cents-
22 per-gallon rates plus the average of the two variable cents-per-gallon rates in effect
23 during that year, less one cent (1¢) per gallon.

24 Sec. 39. Quarterly Refund Rate. Notwithstanding G.S. 105-446.1, 105-
25 446.3, and 105-449.24 to the contrary, the entities eligible under those statutes for a
26 refund of tax paid on motor fuel or special fuel are entitled to a refund at the rate of
27 fourteen and seven-tenths cents (14.7¢) per gallon for tax paid or accrued on fuel
28 purchased before July 1, 1989, but used after July 1, 1989.

29 **PART V**

30 **EFFECTIVE DATES**

31 Sec. 40. Parts I, II, IV, and V of this act shall become effective July 1, 1989.
32 Part III of this act shall become effective October 1, 1989. The prohibition imposed by
33 G.S. 136-44.7(b) on changing the order of unpaved roads set out in a published list of
34 the top ten roads to be paved in a county applies to lists adopted for fiscal years
35 beginning with the 1988-89 fiscal year.