

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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**SENATE BILL 1704*
Finance Committee Substitute Adopted 6/4/08**

Short Title: Rev Laws Tech., Clarifying, & Admin Changes.

(Public)

Sponsors:

Referred to:

May 21, 2008

**A BILL TO BE ENTITLED
AN ACT TO MAKE TECHNICAL, CLARIFYING, AND ADMINISTRATIVE
CHANGES TO THE TAX AND RELATED LAWS.**

The General Assembly of North Carolina enacts:

911 TECHNICAL CHANGES

SECTION 1.(a) Notwithstanding G.S. 62A-45(c), if the amount of reimbursements to CMRS providers for a fiscal year is less than the amount of funds allocated for that purpose for that fiscal year and the amount of funds allocated under G.S. 62A-44(b)(2) for that fiscal year for monthly distributions to PSAPs is insufficient to give each PSAP its base amount under G.S. 62A-46(a), the 911 Board may reallocate part or all of the excess CMRS reimbursement funds to the PSAP allocation to give each PSAP as much of its base amount as possible. The definitions in G.S. 62A-40 apply to this section.

SECTION 1.(b) G.S. 62A-46(b) reads as rewritten:

"(b) Percentage Designations. – The 911 Board must determine how revenue that is allocated to the 911 Fund for distribution to primary PSAPs and is not needed to make the base amount distribution required by subdivision (a)(1) of this section is to be used. The 911 Board must designate a percentage of the remaining funds to be distributed to primary PSAPs on a per capita basis and a percentage to be allocated to the PSAP Grant Account established in G.S. 62A-47. If the 911 Board does not designate an amount to be allocated to the PSAP Grant Account, the 911 Board must distribute all of the remaining funds on a per capita basis. The 911 Board may not change the percentage designation more than once each ~~calendar~~ fiscal year."

SECTION 1.(c) G.S. 62A-46 is amended by adding a new section to read:

"(f) Application to Cherokees. – The Eastern Band of Cherokee Indians is an eligible PSAP. The Tribal Council of the Eastern Band is the local governing entity of the Eastern Band for purposes of this section. The Tribal Council must give the 911 Board information adequate to determine the Eastern Band's base amount. The 911

1 Board must use the most recent federal census estimate of the population living on the
2 Qualla Boundary to determine the per capita distribution amount."

3 **SECTION 1.(d)** This section is effective when it becomes law. Subsection
4 (a) of this section expires October 1, 2009. Subsection (c) of this section applies to
5 distributions for the 2007-2008 fiscal year and subsequent fiscal years.

6 **WORK OPPORTUNITY TAX CREDIT CHANGES**

7 **SECTION 2.(a)** G.S. 105-129.16G reads as rewritten:

8 "**§ 105-129.16G. Work Opportunity Tax Credit.**

9 (a) Credit. – A taxpayer who is allowed a federal tax credit under Part IV,
10 Subpart F of the Code for the taxable year is allowed a credit against the tax imposed by
11 this Part. The credit is equal to six percent (6%) of the amount of credit allowed under
12 the ~~Code~~.Code for wages paid during the taxable year for positions located in this State.
13 A position is located in this State if more than fifty percent (50%) of the employee's
14 duties are performed in the State.

15 (b) Sunset. – This section expires for taxable years beginning on or after January
16 1, 2012."

17 **SECTION 2.(b)** G.S. 105-130.5(b)(11) reads as rewritten:

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

20 ...

21 (11) If a deduction for an ordinary and necessary business expense was
22 required to be reduced or was not allowed under the Code because the
23 corporation claimed a federal tax credit against its federal income tax
24 liability for the income year in lieu of a deduction, the amount by
25 which the deduction was reduced and the amount of the deduction that
26 was disallowed. This deduction is allowed only to the extent that a
27 similar credit is not allowed by this Chapter for the amount."

28 **SECTION 2.(c)** G.S. 105-134.6(d)(2) reads as rewritten:

29 "(2) The taxpayer may deduct the amount by which the taxpayer's
30 deductions allowed under the Code were reduced, and the amount of
31 the taxpayer's deductions that were not allowed, because the taxpayer
32 elected a federal tax credit in lieu of a deduction. This deduction is
33 allowed only to the extent that a similar credit is not allowed by this
34 ~~Part~~Chapter for the amount."

35 **SECTION 2.(d)** Subsection (a) of this section is effective for taxable years
36 beginning on or after January 1, 2008. The remainder of this section is effective when it
37 becomes law.

38 **REFORM TAX APPEALS CHANGES**

39 **SECTION 3.(a)** Section 10 of S.L. 2007-491 is repealed.

40 **SECTION 3.(b)** G.S. 105-122(a) reads as rewritten:

41 "(a) An annual franchise or privilege tax is imposed on a corporation doing
42 business in this State. The tax is determined on the basis of the books and records of the
43 corporation as of the close of its income year. A corporation subject to the tax must file
44 a return under affirmation with the Secretary at the place and in the manner prescribed

1 by the Secretary. The return must be signed by the president, vice-president, treasurer,
2 or chief financial officer of the corporation. The return is due on or before the fifteenth
3 day of the fourth month following the end of the corporation's income year. Every
4 corporation, domestic and foreign, incorporated, or, by an act, domesticated under the
5 laws of this State or doing business in this State, except as otherwise provided in this
6 Article, shall, on or before the fifteenth day of the third month following the end of its
7 income year, annually make and deliver to the Secretary in the form prescribed by the
8 Secretary a full, accurate, and complete report and statement signed by either its
9 president, vice president, treasurer, assistant treasurer, secretary or assistant secretary,
10 containing the facts and information required by the Secretary as shown by the books
11 and records of the corporation at the close of the income year.

12 There shall be annexed to the return required by this subsection the affirmation of
13 the officer signing the return."

14 **SECTION 3.(c)** Subsections (a) and (c) of this section are effective January
15 1, 2008. Subsection (b) of this section is effective for taxable years beginning on or
16 after January 1, 2009.

17 **SECTION 4.(a)** G.S. 105-130.16(a) reads as rewritten:

18 "(a) Return. – Every corporation doing business in this State must file with the
19 Secretary an income tax return showing specifically the items of gross income and the
20 deductions allowed by this Part and any other facts the Secretary requires to make any
21 computation required by this Part. The return of a corporation must be signed by its
22 president, vice-president, treasurer, ~~assistant treasurer, secretary, or assistant secretary.~~
23 or chief financial officer. The officer signing the return must furnish an affirmation
24 verifying the return. The affirmation must be in the form required by the Secretary."

25 **SECTION 4.(b)** This section is effective for taxable years beginning on or
26 after January 1, 2009.

27 **SECTION 5.(a)** G.S. 105-241.11(a) reads as rewritten:

28 "(a) Procedure. – A taxpayer who objects to a proposed denial of a refund or a
29 proposed assessment of tax may request a Departmental review of the proposed action
30 by filing a request for review. The request must be filed with the Department ~~within 45~~
31 ~~days after the following:~~ as follows:

- 32 (1) ~~The~~ Within 45 days of the date the notice of the proposed denial of the
33 refund or proposed assessment was mailed to the taxpayer, if the
34 notice was delivered by mail.
- 35 (2) ~~The~~ Within 45 days of the date the notice of the proposed denial of the
36 refund or proposed assessment was delivered to the taxpayer, if the
37 notice was delivered in person.
- 38 (3) ~~The date that~~ At any time between the date that inaction by the
39 Department on a request for refund ~~was~~ is considered a proposed
40 denial of the ~~refund~~ refund and the date the time periods set in the
41 other subdivisions of this subsection expire."

42 **SECTION 5.(b)** This section is effective for taxable years beginning on or
43 after January 1, 2008.

44 **SECTION 6.(a)** G.S. 105-241.14(c) reads as rewritten:

1 "(c) Time Limit. – The process set out in G.S. 105-241.13 for reviewing and
2 attempting to resolve a proposed denial of a refund or a proposed assessment must
3 conclude, and a final determination must be issued within nine months after the date the
4 taxpayer files a request for review. The Department and the taxpayer may extend this
5 time limit by mutual agreement. Failure to issue a notice of final determination within
6 the required time does not affect the validity of a proposed denial of a refund or
7 proposed assessment."

8 **SECTION 6.(b)** This section is effective for taxable years beginning on or
9 after January 1, 2008.

10 **SECTION 7.(a)** G.S. 105-241.22(1) reads as rewritten:

11 "**§ 105-241.22. Collection of tax.**

12 The Department may collect a tax in the following circumstances:

13 (1) When a taxpayer files a return showing ~~tax~~an amount due with the
14 return and does not pay the amount shown due."

15 **SECTION 7.(b)** This section is effective for taxable years beginning on or
16 after January 1, 2008.

17 **SECTION 8.** G.S. 105-449.52(b) reads as rewritten:

18 "(b) ~~Hearing-Review.~~ – The procedure set out in G.S. 105-449.119 for ~~protesting~~
19 reviewing a penalty imposed under Article 36C, Part 6, of this Chapter applies to a
20 penalty imposed under this section."

21 **SECTION 9.** G.S. 150B-31.1(d) reads as rewritten:

22 "(d) ~~Law Enforcement Reports.~~ – ~~A report of a law enforcement agency is~~The
23 following agency reports are admissible without testimony from personnel of the ~~law~~
24 ~~enforcement agency.~~agency:

25 (1) Law enforcement reports.

26 (2) Government agency lab reports used for the enforcement of motor fuel
27 tax laws."

28 **COLLECTION CHANGES**

29 **SECTION 10.(a)** G.S. 105-253 is recodified as G.S. 105-242.2 and reads as
30 rewritten:

31 "**§ 105-242.2. Personal liability when certain taxes not ~~remitted~~paid.**

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

33 (1) Business entity. – A corporation, a limited liability company, or a
34 partnership.

35 (2) Responsible person. – Any of the following:

36 a. The president, treasurer, or chief financial officer of a
37 corporation.

38 b. A manager of a limited liability company or a partnership.

39 c. An officer of a corporation, a member of a limited liability
40 company, or a partner in a partnership who has a duty to deduct,
41 account for, or pay taxes listed in subsection (b) of this section.

42 d. A partner who is liable for the debts and obligations of a
43 partnership under G.S. 59-45 or G.S. 59-403.

1 Any officer, trustee, or receiver of any corporation or limited liability company
2 required to file a report with the Secretary who has custody of funds of the corporation
3 or company and who allows the funds to be paid out or distributed to the stockholders of
4 the corporation or to the members of the company without having remitted to the
5 Secretary any State taxes that are due is personally liable for the payment of the tax.

6 (b) Responsible Person. – Each responsible officer person in a business entity is
7 personally and individually liable for all of the following taxes listed in this subsection.
8 If a business entity does not pay a tax it owes after the tax becomes collectible under
9 G.S. 105-241.22, the Secretary may enforce the responsible person's liability for the tax
10 by sending the responsible person a notice of proposed assessment in accordance with
11 G.S. 105-241.9. The taxes for which a responsible person may be held personally and
12 individually liable are:

- 13 (1) All sales and use taxes collected by a corporation or a limited liability
14 company the business entity upon its taxable transactions.
- 15 (2) All sales and use taxes due upon taxable transactions of a corporation
16 or a limited liability company the business entity but upon which it
17 failed to collect the tax, but only if the person knew, or in the exercise
18 of reasonable care should have known, that the tax was not being
19 collected.
- 20 (3) All taxes due from a corporation or a limited liability company the
21 business entity pursuant to the provisions of Articles 36C and 36D of
22 Subchapter V of this Chapter and all taxes payable under those
23 Articles by it to a supplier for remittance to this State or another state.
- 24 (4) All income taxes required to be withheld from the wages of employees
25 of a corporation or a limited liability company the business entity.

26 ~~The liability of the responsible officer is satisfied upon timely remittance of the tax~~
27 ~~by the corporation or the limited liability company. If the tax remains unpaid after it is~~
28 ~~due and payable, the Secretary may proceed to enforce the responsible officer's liability~~
29 ~~for the tax by sending the responsible officer a notice of proposed assessment in~~
30 ~~accordance with G.S. 105-241.9. As used in this section, the term "responsible officer"~~
31 ~~means the president, treasurer, and chief financial officer of a corporation, the manager~~
32 ~~of a limited liability company, and any other officer of a corporation or member of a~~
33 ~~limited liability company who has a duty to deduct, account for, or pay taxes listed in~~
34 ~~this subsection. Any penalties that may be imposed under G.S. 105-236 and that apply~~
35 ~~to a deficiency also apply to an assessment made under this section.~~

36 ~~The period of limitations for assessing a responsible officer for unpaid taxes under~~
37 ~~this section expires one year after the expiration of the period of limitations for~~
38 ~~assessment against the corporation or limited liability company.~~

39 (c) Repealed by Session Laws 1991 (Regular Session, 1992), c. 1007, s. 15.

40 (d) Distributions. – An officer, partner, trustee, or receiver of a business entity
41 required to file a report with the Secretary who has custody of funds of the entity and
42 who allows the funds to be paid out or distributed to the owners of the entity without
43 having remitted to the Secretary any State taxes that are due is personally liable for the
44 payment of the tax. The Secretary may enforce an individual's liability under this

1 subsection by sending the individual a notice of proposed assessment in accordance
2 with G.S. 105-241.9.

3 (e) Statute of Limitations. – The period of limitations for assessing a responsible
4 person for unpaid taxes under this section expires one year after the expiration of the
5 period of limitations for assessing the business entity."

6 **SECTION 10.(b)** This section becomes effective July 1, 2008, and applies
7 to taxes that become collectible on or after that date.

8 SALES TAX CHANGES

9 **SECTION 11.** G.S. 105-164.16 is amended by adding a new subsection to
10 read:

11 "(e) Simultaneous State and Local Changes. – When State and local sales and use
12 tax rates change on the same date because one increases and the other decreases but the
13 combined general rate does not change, sales and use taxes payable on the gross receipts
14 from the following periodic payments are reportable in accordance with the changed
15 State and local rates:

16 (1) Lease or rental payments billed after the effective date of the changes.

17 (2) Installment sale payments received after the effective date of the
18 changes by a taxpayer who reports the installment sale on a cash
19 basis."

20 OCCUPANCY TAX CHANGES

21 **SECTION 12.(a)** Article 9 of Chapter 105 is amended by adding a new
22 section to read:

23 **§ 105-264.1. Secretary's interpretation applies to local taxes that are based on**
24 **State taxes.**

25 An interpretation by the Secretary of a law administered by the Secretary applies to a
26 local law administered by a unit of local government when the local law refers to the
27 State law to determine the application of the local law. A person who is subject to the
28 local law or the unit of local government that administers the local law may ask the
29 Secretary for an interpretation of the State law that determines the application of the
30 local law. An interpretation by the Secretary of a State law that determines the
31 application of a local law provides the same protections against liability under the local
32 law that it provides under the State law."

33 **SECTION 12.(b)** G.S. 153A-155(c) reads as rewritten:

34 "(c) Collection. – Every operator of a business subject to a room occupancy tax
35 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
36 be collected as part of the charge for furnishing a taxable accommodation. If a taxable
37 accommodation is furnished as part of a package, the bundled transaction provisions in
38 G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If
39 those provisions do not address the type of package offered, the operator may determine
40 an allocated price for each item in the package based on a reasonable allocation of
41 revenue that is supported by the operator's business records kept in the ordinary course
42 of business and collect tax on the allocated price of the taxable accommodation.~~The~~

43 The tax shall be stated and charged separately from the sales records and shall be
44 paid by the purchaser to the operator of the business as trustee for and on account of the

1 taxing county. The tax shall be added to the sales price and shall be passed on to the
2 purchaser instead of being borne by the operator of the business.~~The~~

3 The taxing county shall design, print, and furnish to all appropriate businesses and
4 persons in the county the necessary forms for filing returns and instructions to ensure
5 the full collection of the tax. An operator of a business who collects a room occupancy
6 tax may deduct from the amount remitted to the taxing county a discount equal to the
7 discount the State allows the operator for State sales and use tax."

8 **SECTION 12.(c)** G.S. 160A-215(c) reads as rewritten:

9 "(c) Collection. – Every operator of a business subject to a room occupancy tax
10 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
11 be collected as part of the charge for furnishing a taxable accommodation. If a taxable
12 accommodation is furnished as part of a package, the bundled transaction provisions in
13 G.S. 105-164.4D apply in determining the sales price of the taxable accommodation. If
14 those provisions do not address the type of package offered, the operator may determine
15 an allocated price for each item in the package based on a reasonable allocation of
16 revenue that is supported by the operator's business records kept in the ordinary course
17 of business and collect tax on the allocated price of the taxable accommodation.~~The~~

18 The tax shall be stated and charged separately from the sales records and shall be
19 paid by the purchaser to the operator of the business as trustee for and on account of the
20 taxing city. The tax shall be added to the sales price and shall be passed on to the
21 purchaser instead of being borne by the operator of the business.~~The~~

22 The taxing city shall design, print, and furnish to all appropriate businesses and
23 persons in the city the necessary forms for filing returns and instructions to ensure the
24 full collection of the tax. An operator of a business who collects a room occupancy tax
25 may deduct from the amount remitted to the taxing city a discount equal to the discount
26 the State allows the operator for State sales and use tax."

27 **MEDICAID TECHNICAL CHANGES**

28 **SECTION 13.(a)** G.S. 105-502 reads as rewritten:

29 **"§ 105-502. Use of additional tax revenue by counties.**

30 (a) Restriction. – Sixty percent (60%) of the revenue received by a county under
31 this Article during For the first 25 fiscal years in which the tax is in effect may be used
32 by the taxes levied under this Article by a county are in effect, the county only must use
33 sixty percent (60%) of the amount of revenue specified in this subsection for public
34 school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any
35 indebtedness incurred by the county for these purposes during the period beginning five
36 years prior to the date the taxes took effect.~~effect:~~

37 (1) The amount of revenue the county receives under this Article.

38 (2) If the amount allocated to the county under G.S. 105-486 is greater
39 than the amount allocated to the county under G.S. 105-501(a), the
40 difference between the two amounts.

41 (b) Exception. – The Local Government Commission may, upon petition by a
42 county, authorize a county to use part or all of its tax the revenue, otherwise required by
43 subsection (a) to be used for public school capital outlay purposes, for any lawful
44 purpose. The petition shall must be in the form of a resolution adopted by the Board of

1 County Commissioners and transmitted to the Local Government Commission. The
2 petition ~~shall~~must demonstrate that the county can provide for its public school capital
3 needs without restricting the use of part or all of the ~~designated amount of the additional~~
4 ~~one-half percent (1/2%) sales and use tax specified~~ revenue for these purposes.

5 In making its decision, the Local Government Commission ~~shall~~must consider
6 information in the petition concerning not only the public school capital needs but also
7 the other capital needs of the petitioning county. The Commission may consider
8 information from sources other than the petition. The Commission ~~shall~~must issue a
9 written decision on each petition stating the findings of the Commission concerning the
10 public school capital needs of the petitioning county and the percentage of revenue
11 otherwise restricted by subsection (a) that may be used by the petitioning county for any
12 lawful purpose.

13 Decisions of the Commission allowing counties to use a percentage of ~~their tax~~the
14 revenue that would otherwise be restricted under subsection (a) for any lawful purpose
15 are final and ~~shall~~ continue in effect until the restrictions ~~imposed by those subsections~~
16 expire. A county whose petition is denied, in whole or in part, by the Commission may
17 subsequently submit a new petition to the Commission.

18 (c) Reserve Fund. – A county may expend part or all of the revenue restricted for
19 public school capital needs pursuant to subsection (a) in the fiscal year in which the
20 revenue is received, or the county may place part or all of this revenue in a capital
21 reserve ~~fund and shall fund.~~ A county must specifically identify this revenue placed in a
22 reserve fund in accordance with Chapter 159 of the General Statutes.

23 (d) Taxes in Effect. – For purposes of this section in determining the number of
24 fiscal years in which one-half percent (1/2%) sales and use taxes levied under this
25 Article have been in effect in a county, these taxes are considered to be in effect only
26 from the effective date of the levy of these taxes and are considered to be in effect for a
27 full fiscal year during the first year in which these taxes were in effect, regardless of the
28 number of months in that year in which the taxes were actually in effect."

29 **SECTION 13.(b)** This section becomes effective October 1, 2009, and
30 applies to distributions for months beginning on or after that date.

31 **SECTION 14.(a)** G.S. 105-522, as enacted by Section 31.16.3(f) of S.L.
32 2007-323, reads as rewritten:

33 "**§ 105-522. City hold harmless for repealed local taxes.**

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

35 (1) Eligible municipality. – A municipality that was incorporated on or
36 before October 1, 2008, and receives a distribution of sales and use
37 taxes under G.S. 105-472.

38 (2) Hold harmless amount. – Fifty percent (50%) of the amount of sales
39 and use tax revenue ~~distributed under Article 40 of this Chapter to the~~
40 ~~municipality for a month, other than revenue from the sale of food that~~
41 ~~is subject to local tax but is exempt from State tax under~~
42 G.S. 105-164.13B. allocated under G.S. 105-486 for distribution to a
43 municipality.

1 (b) Requirement. – A county is required to hold the eligible municipalities in the
2 county harmless from the repeal of the local sales and use taxes formerly imposed under
3 this Article. The Secretary must add an eligible municipality's hold harmless amount to
4 the amount ~~distributed to the otherwise allocated to the municipality for distribution~~
5 under this Subchapter. To obtain the revenue for the hold harmless distribution, the
6 Secretary must reduce ~~each county's monthly allocation under G.S. 105-472(b) the~~
7 ~~amount otherwise allocated to a county for distribution under Article 39 of this~~
8 ~~Subchapter~~ or under Chapter 1096 of the 1967 Session Laws by the hold harmless
9 amounts for the municipalities in that county."

10 **SECTION 14.(b)** Section 31.16.3(d) of S.L. 2007-323 is repealed.

11 **SECTION 14.(c)** Section 31.16.3(e) of S.L. 2007-323 is repealed.

12 **SECTION 14.(d)** Subsection (a) of this section becomes effective October
13 1, 2008, and applies to distributions for months beginning on or after that date. The
14 remainder of this section is effective when it becomes law.

15 **SECTION 15.(a)** G.S. 105-523, as enacted by Section 31.16.3(f) of S.L.
16 2007-323, reads as rewritten:

17 "**§ 105-523. County hold harmless for repealed local taxes.**

18 (a) Intent. – It is the intent of the General Assembly that each county benefit by
19 at least five hundred thousand dollars (\$500,000) annually from the exchange of a
20 portion of the local sales and use taxes for the State's agreement to assume the
21 responsibility for the non-administrative costs of Medicaid.

22 (b) Definitions. – The following definitions apply in this section:

23 (1) City hold harmless amount. – The hold harmless amount determined
24 under G.S. 105-522 for the eligible municipalities in a county.

25 ~~(1)(2)~~ Hold harmless threshold. – The amount of a county's Medicaid service
26 costs and Medicare Part D clawback payments assumed by the State
27 under G.S. 108A-54 for the fiscal year, less five hundred thousand
28 dollars (\$500,000).

29 ~~(2)(3)~~ Repealed sales tax amount. – Fifty percent (50%) of the amount of
30 sales and use tax revenue distributed to a county under Article 40 of
31 this Chapter, other than revenue from the sale of food that is subject to
32 local tax but is exempt from State tax under G.S. 105-164.13B.
33 allocated under G.S. 105-486 for distribution to a county.

34 (c) Requirement. – If a county's repealed sales tax amount plus its city hold
35 harmless amount for a fiscal year exceeds the county's hold harmless threshold for that
36 fiscal year, the State is required to hold the county harmless for the difference by paying
37 the amount of the difference to the county. The Secretary must withhold from sales and
38 use tax collections under Article 5 of this Chapter the amount needed to make the
39 county hold harmless payments required by this section.

40 (d) Method. – The Secretary must estimate a county's repealed sales tax ~~amount~~
41 amount, city hold harmless amount, and hold harmless threshold for a fiscal year to
42 determine if the county is eligible for a hold harmless payment. The Secretary must
43 send to an eligible county with the distribution made under G.S. 105-472 for March of
44 that year an amount equal to ninety percent (90%) of its estimated hold harmless

1 payment. At the end of each fiscal year, the Secretary must determine ~~the difference~~
2 ~~between a county's repealed sales tax amount and its each county's hold harmless~~
3 ~~threshold payment~~ for that year. The Secretary must send by August 15 the remainder of
4 the county's hold harmless payment for the fiscal year that ended on June 30. The
5 Secretary of the Department of Human Resources must give the Secretary of Revenue
6 the data needed to determine a county's hold harmless threshold."

7 **SECTION 15.(b)** Section 31.16.3(g) of S.L. 2007-323 is repealed.

8 **SECTION 15.(c)** Section 31.16.4(c) of S.L. 2007-323 is repealed.

9 **SECTION 15.(d)** Section 31.16.4(d) of S.L. 2007-323 is repealed.

10 **SECTION 15.(e)** Section 31.16.4(e) of S.L. 2007-323 is repealed.

11 **SECTION 15.(f)** Section 14.4 of S.L. 2007-345 is repealed.

12 **SECTION 15.(g)** G.S. 105-522(a)(2), as enacted by Section 31.16.3(f) of
13 S.L. 2007-323 and amended by Section 14 of this act, reads as rewritten:

14 "(2) Hold harmless amount. – Fifty percent (50%) of the~~The sum of the~~
15 following amounts allocated for distribution to a municipality for a
16 month:

17 a. The amount of sales and use tax revenue allocated under
18 G.S. 105-486 for distribution to a municipality. 105-486. This
19 calculation determines the effect of repealing a one-half percent
20 (½%) sales and use tax distributed on a per capita basis.

21 b. An amount determined by subtracting twenty-five percent (25%) of
22 the amount of sales and use tax revenue allocated under
23 G.S. 105-472 or Chapter 1096 of the 1967 Session Laws from fifty
24 percent (50%) of the amount of sales and use tax revenue allocated
25 under G.S. 105-486. This calculation determines the effect of
26 distributing a one-quarter percent (.25%) tax on the basis of point
27 of origin instead of on a per capita basis."

28 **SECTION 15.(h)** G.S. 105-523(b)(3), as enacted by Section 31.16.3(f) of
29 S.L. 2007-323 and as amended by subsection (a) of this section, reads as rewritten:

30 "(3) Repealed sales tax amount. – Fifty percent (50%) of the~~The sum of~~
31 the following amounts allocated for distribution to a county for a
32 month:

33 a. The amount of sales and use tax revenue allocated under
34 G.S. 105-486 for distribution to a county. 105-486. This
35 calculation determines the effect of repealing a one-half percent
36 (½%) sales and use tax distributed on a per capita basis.

37 b. An amount determined by subtracting twenty-five percent
38 (25%) of the amount of sales and use tax revenue allocated
39 under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws
40 from fifty percent (50%) of the amount of sales and use tax
41 revenue allocated under G.S. 105-486. This calculation
42 determines the effect of distributing a one-quarter percent
43 (.25%) tax on the basis of point of origin instead of on a per
44 capita basis."

1 **SECTION 15.(i)** For fiscal year 2008-2009, the hold harmless amount
2 determined for a municipality under G.S. 105-522 and the repealed sales tax amount
3 determined for a county under G.S. 105-523 is reduced by the amount distributed in
4 October, November, and December of 2008 to the municipality or county on a per
5 capita basis under repealed G.S. 105-520(b).

6 For fiscal year 2009-2010, the hold harmless amount determined for a
7 municipality under G.S. 105-522 and the repealed sales tax amount determined for a
8 county under G.S. 105-523 is reduced by the amount distributed in October, November,
9 and December of 2009 to the municipality or county on the basis of point of origin
10 under repealed G.S. 105-520(a).

11 **SECTION 15.(j)** Subsection (a) of this section becomes effective October 1,
12 2008, and applies to distributions for months beginning on or after that date.
13 Subsections (g) and (h) of this section become effective October 1, 2009, and apply to
14 distributions for months beginning on or after that date. The remainder of this section is
15 effective when it becomes law.

16 **MOTOR FUEL TAX LAW CHANGES**

17 **SECTION 16.** G.S. 105-449.37 reads as rewritten:

18 **"§ 105-449.37. Definitions; tax liability.**

19 (a) Definitions. – The following definitions apply in this Article:

20 (1) International Fuel Tax Agreement. – The Articles of Agreement
21 adopted by the International Fuel Tax Association, Inc., as amended as
22 of June 1, 2008.

23 (2) Motor carrier. – A person who operates or causes to be operated on
24 any highway in this State a motor vehicle that is a qualified motor
25 ~~vehicle under the International Fuel Tax Agreement.~~ vehicle. The term
26 does not include the United States, ~~the State,~~ a state, or a political
27 subdivision of ~~the State.~~ a state.

28 ~~(1a)~~(3) Motor vehicle. – ~~A motor vehicle as defined in G.S. 105-164.3~~
29 ~~other than special mobile equipment as defined in~~
30 ~~G.S. 105-164.3.~~ Defined in G.S. 20-4.01.

31 ~~(2)~~(4) Operations. – ~~Operations of all motor vehicles described in subdivision~~
32 ~~(1).~~ The movement of a qualified motor vehicle by a motor carrier,
33 whether loaded or empty and whether or not operated for
34 compensation.

35 ~~(2a)~~(5) Person. – Defined in G.S. 105-228.90.

36 (6) Qualified motor vehicle. – Defined in the International Fuel Tax
37 Agreement.

38 ~~(3)~~(7) Secretary. – ~~The Secretary of Revenue.~~ Defined in G.S. 105-228.90.

39 (b) Liability. – A motor carrier who operates on one or more days of a reporting
40 period is liable for the tax imposed by this Article for that reporting period and is
41 entitled to the credits allowed for that reporting period."

42 **SECTION 17.** G.S. 105-449.38 reads as rewritten:

43 **"§ 105-449.38. Tax levied.**

1 A road tax for the privilege of using the streets and highways of this State is imposed
2 upon every motor carrier on the amount of motor fuel or alternative fuel used by the
3 carrier in its operations within this State. The tax shall be at the rate established by the
4 Secretary pursuant to G.S. 105-449.80 or G.S. 105-449.136, as appropriate. This tax is
5 in addition to any other taxes imposed on motor ~~carriers~~carriers."

6 **SECTION 18.** G.S. 105-449.44 reads as rewritten:

7 "**§ 105-449.44. How to determine the amount of fuel used in the State;**
8 **presumption of amount used.**

9 (a) Calculation. – The amount of motor fuel or alternative fuel a motor carrier
10 uses in its operations in this State for a reporting period is the number of miles the
11 motor carrier travels in this State during that period divided by the calculated miles per
12 gallon for the motor carrier for all qualified motor vehicles during that period.

13 (b) Presumption. – The Secretary must check reports filed under this Article
14 against the weigh station records and other records of the Division of Motor Vehicles of
15 the Department of Transportation and the State Highway Patrol of the Department of
16 Crime Control and Public Safety concerning motor carriers to determine if motor
17 carriers that are operating in this State are filing the reports required by this Article. ~~The~~
18 ~~Department may assess a motor carrier for the amount payable based on the presumed~~
19 ~~mileage. A motor carrier that does either of the following for a quarter is presumed to~~
20 ~~have traveled in this State during that quarter the number of miles equal to 10 trips of~~
21 ~~450 miles each for each of the motor carrier's vehicles; If the records indicate that a~~
22 ~~motor carrier operated in this State in a quarter and either did not file a report for that~~
23 ~~quarter or understated its mileage in this State on a report filed for that quarter by at~~
24 ~~least twenty-five percent (25%), the Secretary may assess the motor carrier for an~~
25 ~~amount based on the motor carrier's presumed operations. The motor carrier is~~
26 ~~presumed to have mileage in this State equal to 10 trips of 450 miles each for each of~~
27 ~~the motor carrier's qualified motor vehicles and to have fuel usage of four miles per~~
28 ~~gallon.~~

29 (1) ~~Fails to file a report for the quarter and the records of the Division~~
30 ~~indicate the carrier operated in this State during the quarter.~~

31 (2) ~~Files a report for the quarter that, based on the records of the Division,~~
32 ~~understates by at least twenty five percent (25%) the carrier's mileage~~
33 ~~in this State for the quarter.~~

34 (c) Vehicles. – The number of qualified motor vehicles of a motor carrier that is
35 registered under this Article is the number of ~~identification markers~~sets of decals issued
36 to the carrier. The number of qualified motor vehicles of a carrier that is not registered
37 under this Article is the number of qualified motor vehicles registered by the motor
38 carrier in the carrier's base state under the International Registration Plan."

39 **SECTION 19.** G.S. 105-449.47 reads as rewritten:

40 "**§ 105-449.47. Registration of vehicles.**

41 (a) Requirement. – A motor carrier that is subject to the International Fuel Tax
42 Agreement may not operate or cause to be operated in this State ~~any vehicle listed in the~~
43 ~~definition of motor vehicle~~a qualified motor vehicle unless both the motor carrier and
44 ~~the~~at least one qualified motor vehicle are registered with the motor carrier's base state

1 jurisdiction. A motor carrier that is not subject to the International Fuel Tax Agreement
2 may not operate or cause to be operated in this State ~~any vehicle listed in the definition~~
3 ~~of motor vehicle~~ a qualified motor vehicle unless both the motor carrier and ~~the~~ at least
4 one qualified motor vehicle are registered with the Secretary for purposes of the tax
5 imposed by this Article. This subsection applies to a motor carrier that operates a
6 recreational vehicle that is considered a qualified motor vehicle.

7 (a1) Registration and ~~Identification Marker. Decal.~~ – When the Secretary registers
8 a motor carrier, the Secretary must issue a registration card for the motor carrier and at
9 least one identification marker ~~a set of decals~~ for each qualified motor vehicle operated
10 by the motor carrier. ~~carrier registers.~~ A motor carrier must keep records of
11 ~~identification markers~~ decals issued to it and must be able to account for all
12 ~~identification markers~~ decals it receives from the Secretary. Registrations and
13 ~~identification markers~~ decals issued by the Secretary are for a calendar year. All
14 ~~identification markers~~ decals issued by the Secretary remain the property of the State.
15 The Secretary may revoke a registration or ~~an identification marker~~ a decal when a
16 motor carrier fails to comply with this Article or Article 36C or 36D of this Subchapter.

17 A motor carrier must carry a copy of its registration in each motor vehicle operated
18 by the motor carrier when the vehicle is in this State. A motor vehicle must clearly
19 display ~~an identification marker~~ one decal on each side of the vehicle at all times. ~~The~~
20 ~~identification marker~~ A decal must be affixed to the qualified motor vehicle for which it
21 was issued in the place and manner designated by the authority that issued it.

22 (b) Exemption. – This section does not apply to the operation of a qualified
23 motor vehicle that is registered in another state and is operated temporarily in this State
24 by a public utility, a governmental or cooperative provider of utility services, or a
25 contractor for one of these entities for the purpose of restoring utility services in an
26 emergency outage."

27 **SECTION 20.** G.S. 105-449.47A reads as rewritten:

28 "**§ 105-449.47A. Reasons why the Secretary can deny an application for a**
29 **registration and ~~identification marker~~ decals.**

30 The Secretary may refuse to register and issue ~~an identification marker~~ a decal to an
31 applicant that has done any of the following:

- 32 (1) Had a registration issued under Chapter 105 or Chapter 119 of the
33 General Statutes cancelled by the Secretary for cause.
- 34 (2) Had a registration issued by another jurisdiction, pursuant to
35 ~~G.S. 105-449.57, the International Fuel Tax Agreement,~~ cancelled for
36 cause.
- 37 (3) Been convicted of fraud or misrepresentation.
- 38 (4) Been convicted of any other offense that indicates that the applicant
39 may not comply with this Article if registered and issued ~~an~~
40 ~~identification marker~~ a decal.
- 41 (5) Failed to remit payment for a tax debt under Chapter 105 or Chapter
42 119 of the General Statutes. The term "tax debt" has the same meaning
43 as defined in G.S. 105-243.1.

1 (6) Failed to file a return due under Chapter 105 or Chapter 119 of the
2 General Statutes."

3 **SECTION 21.** G.S. 105-449.50 is repealed.

4 **SECTION 22.** G.S. 105-449.51 reads as rewritten:

5 "**§ 105-449.51. Violations declared to be misdemeanors.**

6 Any person who operates or causes to be operated on a highway in this State a
7 qualified motor vehicle that does not carry a registration card as required by this Article,
8 does not properly display ~~an identification marker~~ a decal as required by this Article, or
9 is not registered in accordance with this Article ~~is guilty of commits~~ a Class 3
10 misdemeanor ~~and, upon conviction thereof, shall be fined and is punishable by a fine of~~
11 two hundred dollars (\$200.00). Each day's operation in violation ~~of any provision~~ of this
12 section ~~shall constitute~~ constitutes a separate offense."

13 **SECTION 23.** G.S. 105-449.52 reads as rewritten:

14 "**§ 105-449.52. Civil penalties applicable to motor carriers.**

15 (a) Penalty. – A motor carrier who does any of the following is subject to a civil
16 penalty:

17 (1) Operates in this State or causes to be operated in this State a qualified
18 motor vehicle that either fails to carry the registration card required by
19 this Article or fails to display ~~an identification marker~~ a decal in
20 accordance with this Article. The amount of the penalty is one hundred
21 dollars (\$100.00).

22 (2) Is unable to account for ~~identification markers~~ a decal the Secretary
23 issues the motor carrier, as required by G.S. 105-449.47. The amount
24 of the penalty is one hundred dollars (\$100.00) for each ~~identification~~
25 ~~marker~~ decal for which the carrier is unable to ~~account for~~ account.

26 (3) Displays ~~an identification marker~~ a decal on a qualified motor vehicle
27 operated by a motor carrier that was not issued to the carrier by the
28 Secretary under G.S. 105-449.47. The amount of the penalty is one
29 thousand dollars (\$1,000) for each ~~identification marker~~ decal
30 unlawfully obtained. Both the licensed motor carrier to whom the
31 Secretary issued the ~~identification marker~~ decal and the motor carrier
32 displaying the unlawfully obtained ~~identification marker~~ decal are
33 jointly and severally liable for the penalty under this subdivision.

34 (a1) Payment. – A penalty imposed under this section is payable to the agency that
35 assessed the penalty. When a qualified motor vehicle is found to be operating without a
36 registration card or ~~an identification marker~~ a decal or with ~~an identification marker~~ a
37 decal the Secretary did not issue for the vehicle, the qualified motor vehicle may not be
38 driven for a purpose other than to park ~~the motor vehicle~~ it until the penalty imposed
39 under this section is paid unless the officer that imposes the penalty determines that
40 ~~operation of the motor vehicle operating it~~ will not jeopardize collection of the penalty.

41 (b) Hearing. – The procedure set out in G.S. 105-449.119 for protesting a penalty
42 imposed under Article 36C, Part 6, of this Chapter applies to a penalty imposed under
43 this section."

44 **SECTION 24.** G.S. 105-449.60 reads as rewritten:

1 **"§ 105-449.60. Definitions.**

2 The following definitions apply in this Article:

- 3 (1) Additive. – A de minimus amount of product that is added or mixed
4 with motor fuel. Examples of an additive include fuel system
5 detergent, an oxidation inhibitor, gasoline antifreeze, or an octane
6 enhancer.
- 7 (2) Aviation gasoline. – Fuel blended or produced specifically for use in
8 an aircraft motor.
- 9 ~~(1)~~(3) Biodiesel. – Any fuel or mixture of fuels derived in whole or in part
10 from agricultural products or animal fats or wastes from these products
11 or fats.
- 12 ~~(1a)~~(4) Biodiesel provider. – A person who does any of the following:
13 a. Produces an average of no more than 500,000 gallons of
14 biodiesel per month during a calendar year. A person who
15 produces more than this amount is a refiner.
16 b. Imports biodiesel outside the terminal transfer system by means
17 of ~~a marine vessel~~, a transport truck, a railroad tank car, or a
18 tank wagon.
- 19 ~~(1b) to (1d)~~ ~~Reserved for future codification purposes.~~
- 20 ~~(1e)~~(5) Blended fuel. – A mixture composed of gasoline or diesel fuel and
21 another liquid, other than ~~a de minimus amount of a product such as~~
22 ~~carburetor detergent or oxidation inhibitor~~, an additive, that can be
23 used as a fuel in a highway vehicle.
- 24 ~~(2)~~(6) Blender. – A person who produces blended fuel outside the terminal
25 transfer system.
- 26 (7) Bonded importer. – A person, other than a supplier, who imports by
27 transport truck or another means of transfer outside the terminal
28 transfer system motor fuel removed from a terminal located in another
29 state in one or more of the following circumstances:
30 a. The state from which the fuel is imported does not require the
31 seller of the fuel to collect motor fuel tax on the removal of the
32 fuel at that state's rate or the rate of the destination state.
33 b. The supplier of the fuel is not an elective supplier.
34 c. The supplier of the fuel is not a permissive supplier.
- 35 ~~(3)~~(8) ~~Bulk end user.~~ Bulk end-user. – A person who maintains storage
36 facilities for motor fuel and uses part or all of the stored fuel to operate
37 a highway vehicle.
- 38 ~~(4)~~(9) Bulk plant. – A motor fuel storage and distribution facility that is not a
39 terminal and from which motor fuel may be removed at a rack.
- 40 ~~(5)~~(10) Code. – Defined in G.S. 105-228.90.
- 41 ~~(6)~~(11) Destination state. – The state, territory, or foreign country to which
42 motor fuel is directed for delivery into a storage facility, a receptacle, a
43 container, or a type of transportation equipment for the purpose of
44 resale or use.

- 1 ~~(7)~~(12) Diesel fuel. – Any liquid, other than gasoline, that is suitable for
2 use as a fuel in a diesel-powered highway vehicle. The term includes
3 biodiesel, fuel oil, heating oil, high-sulfur dyed diesel fuel, and
4 kerosene. The term does not include jet fuel sold to a buyer who is
5 certified to purchase jet fuel under the Code.fuel.
- 6 ~~(8)~~(13) Distributor. – A person who acquires motor fuel from a supplier or
7 from another distributor for subsequent sale.does one or more of the
8 activities listed in this subdivision. The term does not include a person
9 who sells motor fuel only at retail.
- 10 a. Produces, refines, blends, compounds, or manufactures motor
11 fuel.
- 12 b. Transports motor fuel into a state or exports motor fuel out of a
13 state.
- 14 c. Engages in the distribution of motor fuel primarily by tank car
15 or tank truck or both.
- 16 d. Operates a bulk plant where the person has active motor fuel
17 bulk storage.
- 18 (14) Diversion. – The movement of motor fuel from a terminal to a state
19 other than the destination state indicated on the original bill of lading.
- 20 ~~(9)~~(15) Dyed diesel fuel. – Diesel fuel that meets the dyeing and marking
21 requirements of ~~§ 4082 of the Code~~ as set out in 26 C.F.R. §
22 48.4082.1.
- 23 ~~(10)~~(16) Elective supplier. – A supplier that is required to be licensed in this
24 State and that elects to collect the excise tax due this State on motor
25 fuel that is removed by the supplier at a terminal located in another
26 state and has this State as its destination state.
- 27 ~~(10a)~~(17) Exempt card or code. – A credit card or an access code that enables
28 the person to whom the card or code is issued to buy motor fuel at
29 retail without paying the motor fuel excise tax on the fuel.
- 30 ~~(11)~~(18) Export. – To obtain motor fuel in this State for sale or other
31 distribution in another state. In applying this definition, motor fuel
32 delivered out-of-state by or for the seller constitutes an export by the
33 seller and motor fuel delivered out-of-state by or for the purchaser
34 constitutes an export by the purchaser.
- 35 ~~(12)~~(19) Fuel alcohol. – Alcohol, methanol, or fuel grade ethanol.
- 36 ~~(13)~~(20) Fuel alcohol provider. – A person who does any of the following:
- 37 a. Produces an average of no more than 500,000 gallons of fuel
38 alcohol per month during a calendar year. A person who
39 produces more than this amount is a refiner.
- 40 b. Imports fuel alcohol outside the terminal transfer system by
41 means of ~~a marine vessel~~, a transport truck, a railroad tank car,
42 or a tank wagon.
- 43 ~~(14)~~(21) Gasohol. – A blended fuel composed of gasoline and fuel grade
44 ethanol.

1 ~~(15)~~(22) Gasoline. – Any of the following:

- 2 a. All products that are commonly or commercially known or sold
3 as gasoline and are suitable for use as a fuel in a highway
4 vehicle, other than products that have an American Society for
5 Testing Materials octane number of less than 75 as determined
6 by the motor method. The term does not include aviation
7 gasoline.
8 b. A petroleum product component of gasoline, such as naptha,
9 reformate, or toluene.
10 c. Gasohol.
11 d. Fuel alcohol.

12 ~~The term does not include aviation gasoline sold for use in an aircraft~~
13 ~~motor. "Aviation gasoline" is gasoline that is designed for use in an~~
14 ~~aircraft motor and is not adapted for use in an ordinary highway~~
15 ~~vehicle.~~

16 ~~(16)~~(23) Gross gallons. – The total amount of motor fuel measured in
17 gallons, exclusive of any temperature, pressure, or other adjustments.

18 ~~(17)~~(24) Highway. – Defined in G.S. 20-4.01(13).

19 ~~(18)~~(25) Highway vehicle. – A self-propelled vehicle that is designed for
20 use on a highway.

21 ~~(19)~~(26) Import. – To bring motor fuel into this State by any means of
22 conveyance other than in the fuel supply tank of a highway vehicle. In
23 applying this definition, motor fuel delivered into this State from
24 out-of-state by or for the seller constitutes an import by the seller, and
25 motor fuel delivered into this State from out-of-state by or for the
26 purchaser constitutes an import by the purchaser.

27 ~~(19a)~~(27) ~~In State only~~ In-State supplier. – Either of the following:

- 28 a. A supplier that is required to have a license and elects not to
29 collect the excise tax due this State on motor fuel that is
30 removed by the supplier at a terminal located in another state
31 and has this State as its destination state.
32 b. A supplier that does business only in this State.

33 (28) Jet fuel. – Kerosene that meets all of the following requirements:

- 34 a. Has a maximum distillation temperature of 400 degrees
35 Fahrenheit at the ten percent (10%) recovery point and a final
36 maximum boiling point of 572 degrees Fahrenheit.
37 b. Meets American Society Testing Materials Specification D
38 1655 and Military Specifications MIL-T-5624P and
39 MIL-T-83133D, Grades JP-5 and JP-8.

40 (29) Kerosene. – Petroleum oil that is free from water, glue, and suspended
41 matter and that meets the specifications and standards adopted under
42 G.S. 119-26 by the Gasoline and Oil Inspection Board.

43 (30) Marine vessel. – A ship, boat, or other watercraft used or capable of
44 being used to move in or through a waterway.

- 1 ~~(20)~~(31) Motor fuel. – Gasoline, diesel fuel, and blended fuel.
- 2 ~~(21)~~(32) Motor fuel rate. – The rate of tax set in G.S. 105-449.80.
- 3 ~~(22)~~(33) Motor fuel transporter. – A person who transports motor fuel by
4 ~~pipeline or who transports motor fuel outside the terminal transfer~~
5 ~~system by means of a pipeline,~~ transport truck, a-railroad tank car, or a
6 marine vessel.
- 7 ~~(23)~~(34) Net gallons. – The amount of motor fuel measured in gallons when
8 corrected to a temperature of 60 degrees Fahrenheit and a pressure of
9 14 7/10 pounds per square inch.
- 10 (35) Occasional importer. – One or more of the following that imports
11 motor fuel by any means outside the terminal transfer system:
- 12 a. A distributor that imports motor fuel on an average basis of no
13 more than once a month during a calendar year.
- 14 b. A bulk end-user that acquires motor fuel for import from a bulk
15 plant and is not required to be licensed as a bonded importer.
- 16 c. A distributor that imports motor fuel for use in a race car.
- 17 ~~(24)~~(36) Permissive supplier. – An out-of-state supplier that elects, but is
18 not required, to have a supplier's license under this Article.
- 19 ~~(25)~~(37) Person. – Defined in G.S. 105-228.90.
- 20 (38) Pipeline. – A fuel distribution system that moves motor fuel, in bulk,
21 through a pipe either from a refinery to a terminal or from a terminal to
22 another terminal.
- 23 ~~(26)~~(39) Position holder. – The person who holds the inventory position ~~in~~
24 on the motor fuel in a terminal, as reflected on the records of the
25 terminal operator. A person holds the inventory position ~~in~~on the
26 motor fuel when that person has a contract with the terminal operator
27 for the use of storage facilities and terminaling services for fuel at the
28 terminal. The term includes a terminal operator who owns fuel in the
29 terminal.
- 30 ~~(27)~~(40) Rack. – A mechanism for delivering motor fuel from a refinery, a
31 terminal, or a bulk plant into a transport truck, a railroad tank car, or
32 another means of transfer that is outside the terminal transfer system.
- 33 ~~(27a)~~(41) Refiner. – A person who owns, operates, or controls a refinery. The
34 term includes a person who produces an average of more than 500,000
35 gallons of fuel alcohol or biodiesel a month during a calendar year.
- 36 ~~(27b)~~(42) Refinery. – A facility used to process crude oil, unfinished oils,
37 natural gas liquids, or other hydrocarbons into motor fuel and from
38 which fuel may be removed by pipeline or vessel or at a rack. The term
39 does not include a facility that produces only blended fuel or gasohol.
- 40 ~~(28)~~(43) Removal. – A physical transfer other than by evaporation, loss, or
41 destruction. A physical transfer to a transport truck or another means
42 of conveyance outside the terminal transfer system is complete upon
43 delivery into the means of conveyance.

- 1 (29)(44) Retailer. – A person who maintains storage facilities for motor fuel
2 and who sells the fuel at retail or dispenses the fuel at a retail location.
- 3 (30)(45) Secretary. – Defined in G.S. 105-228.90.
- 4 (31)(46) Supplier. – Any of the following:
- 5 a. A position holder or a person who receives motor fuel pursuant
6 to a two-party exchange.
- 7 b. A fuel alcohol provider.
- 8 c. A biodiesel provider.
- 9 d. A refiner.
- 10 (32)(47) System transfer. – Either of the following:
- 11 a. A transfer of motor fuel within the terminal transfer system.
- 12 b. A transfer, by transport truck or railroad tank car, of fuel grade
13 ethanol.
- 14 (33)(48) Tank wagon. – A truck that is not a transport truck and is designed
15 or used to carry at least 1,000 gallons of motor fuel.
- 16 (49) Tank wagon importer. – A person who imports only by means of a
17 tank wagon motor fuel that is removed from a terminal or a bulk plant
18 located in another state.
- 19 (33a)(50) Tax. – An inspection or other excise tax on motor fuel and any
20 other fee or charge imposed on motor fuel on a per-gallon basis.
- 21 (34)(51) Terminal. – A motor fuel storage and distribution facility that has
22 been assigned a terminal control number by the Internal Revenue
23 Service, is supplied by pipeline or marine vessel, and from which
24 motor ~~fuel~~ fuel, jet fuel, or aviation gasoline may be removed at a rack.
- 25 (35)(52) Terminal operator. – A person who owns, operates, or otherwise
26 controls a terminal.
- 27 (36)(53) Terminal transfer system. – The motor fuel distribution system
28 consisting of refineries, pipelines, marine vessels, and terminals. The
29 term has the same meaning as "bulk transfer/terminal system" under
30 26 C.F.R. § 48.4081-1.
- 31 (37)(54) Transmix. – Either of the following:
- 32 a. The buffer or interface between two different products in a
33 pipeline shipment.
- 34 b. A mix of two different products within a refinery or terminal
35 that results in an off-grade mixture.
- 36 (38)(55) Transport truck. – A ~~semitrailer-tractor trailer combination rig~~
37 designed or used to transport loads of motor fuel over a highway.
- 38 (39)(56) Trustee. – A person who is licensed as a ~~supplier, an elective~~
39 ~~supplier, or a permissive supplier~~ and who receives tax payments from
40 and on behalf of a licensed ~~distributor~~ distributor or licensed importer
41 for remittance to the Secretary.
- 42 (40)(57) Two-party exchange. – A transaction in which motor fuel is
43 transferred from one licensed supplier to another licensed supplier
44 pursuant to an exchange agreement under which the supplier that is the

1 position holder agrees to deliver motor fuel to the other supplier or the
 2 other supplier's customer at the rack of the terminal at which the
 3 delivering supplier is the position holder.

4 ~~(41)~~(58) User. – A person who owns or operates a licensed highway vehicle
 5 that has a registered gross vehicle weight of at least 10,001 pounds and
 6 who does not maintain storage facilities for motor fuel."

7 **SECTION 25.** G.S. 105-449.65 reads as rewritten:

8 **"§ 105-449.65. List of persons who must have a license.**

9 (a) License. – A person may not engage in business in this State as any of the
 10 following unless the person has a license issued by the Secretary authorizing the person
 11 to engage in that business:

12 (1) A refiner.

13 (2) A supplier.

14 (3) A terminal operator.

15 (4) An importer.

16 (5) An exporter.

17 (6) A blender.

18 (7) A motor fuel ~~transporter~~ transporter who transports motor fuel for hire.

19 (8) Repealed by Session Laws 1999-438, s. 20, effective August 10, 1999.

20 (9) Repealed by Session Laws 1999-438, s. 21, effective August 10, 1999.

21 (10) A distributor who purchases motor fuel from an elective or permissive
 22 supplier at an out-of-state terminal for import into this State.

23 (b) Multiple Activity. – A person who is engaged in more than one activity for
 24 which a license is required must have a separate license for each activity, unless ~~this~~
 25 ~~subsection one of the following subdivisions provides otherwise. A~~

26 (1) Supplier. – A person who is licensed as a supplier is considered to
 27 have a license as a distributor. A person who is licensed as a supplier
 28 and is a biodiesel provider is considered to have a license as a blender.

29 (2) Importer. – A person who is licensed as an occasional importer or a
 30 tank wagon importer is not required to obtain a separate license as a
 31 distributor unless the importer is also purchasing motor fuel, at the
 32 terminal rack, from an elective or permissive supplier who is
 33 authorized to collect and remit the tax to the State.

34 (3) Distributor. – A person who is licensed as a distributor is not required
 35 to obtain a separate license as an importer if the distributor acquires
 36 fuel for import only from an elective supplier or a permissive supplier
 37 and is not required to obtain a separate license as an exporter. A person
 38 who is licensed as a distributor or a blender and who transports fuel is
 39 considered to be licensed as a motor fuel transporter."

40 **SECTION 26.** G.S. 105-449.66 reads as rewritten:

41 **"§ 105-449.66. ~~Types of importers; restrictions on who can get a license as an~~**
 42 **importer.Importer licensing.**

1 (a) ~~Types.~~—An applicant for a license as an importer must indicate on the
2 application the type of importer license sought. The types of importers are bonded
3 importer, occasional importer, and tank wagon importer. as follows:

- 4 (1) ~~Bonded importer.~~ — A ~~bonded importer is a person, other than a~~
5 ~~supplier, who imports, by transport truck or another means of transfer~~
6 ~~outside the terminal transfer system, motor fuel removed from a~~
7 ~~terminal located in another state in any of the following circumstances:~~
8 a. ~~The state from which the fuel is imported does not require the~~
9 ~~seller of the fuel to collect motor fuel tax on the removal either~~
10 ~~at that state's rate or the rate of the destination state.~~
11 b. ~~The supplier of the fuel is not an elective supplier.~~
12 c. ~~The supplier of the fuel is not a permissive supplier.~~
13 (2) ~~Occasional importer.~~—An ~~occasional importer is any of the following~~
14 ~~that imports motor fuel by any means outside the terminal transfer~~
15 ~~system:~~
16 a. ~~A distributor that imports motor fuel on an average basis of no~~
17 ~~more than once a month during a calendar year.~~
18 b. ~~A bulk end user that acquires motor fuel for import from a bulk~~
19 ~~plant and is not required to be licensed as a bonded importer.~~
20 c. ~~A distributor that imports motor fuel for use in a race car.~~
21 (3) ~~Tank wagon importer.~~—A ~~tank wagon importer is a person who~~
22 ~~imports, only by means of a tank wagon, motor fuel that is removed~~
23 ~~from a terminal or a bulk plant located in another state.~~

24 (b) ~~Restrictions.~~—A person may not be licensed as more than one type of
25 importer. A ~~bulk end user~~ bulk end-user that imports motor fuel from a terminal of a
26 supplier that is not an elective or a permissive supplier must be licensed as a bonded
27 importer. A ~~bulk end user~~ bulk end-user that imports motor fuel from a bulk plant and is
28 not required to be licensed as a bonded importer must be licensed as an occasional
29 importer. A ~~bulk end user~~ bulk end-user that imports motor fuel only from a terminal of
30 an elective or a permissive supplier is not required to be licensed as an importer."

31 **SECTION 27.** G.S. 105-449.68 reads as rewritten:

32 "**§ 105-449.68. Restrictions on who can get a license as a distributor.**

33 A ~~bulk end user~~ bulk end-user of motor fuel may not be licensed as a distributor
34 unless the ~~bulk end user~~ bulk end-user also acquires motor fuel from a supplier or from
35 another distributor for subsequent sale. This restriction does not apply to a ~~bulk end user~~
36 bulk end-user that was licensed as a distributor on January 1, 1996. If a distributor
37 license held by a ~~bulk end user~~ bulk end-user on January 1, 1996, is subsequently
38 cancelled, the ~~bulk end user~~ bulk end-user is subject to the restriction set in this
39 section."

40 **SECTION 28.** G.S. 105-449.69(c) reads as rewritten:

41 "(c) Federal Certificate. — An applicant for a license as a refiner, a supplier, a
42 terminal operator, or a blender, ~~or a permissive supplier~~ blender must have a federal
43 Certificate of Registry that is issued under § 4101 of the Code and authorizes the
44 applicant to enter into federal tax-free transactions in taxable motor fuel in the terminal

1 transfer system. An applicant that is required to have a federal Certificate of Registry
2 must include the registration number of the certificate on the application for a license
3 under this section.

4 An applicant for a license as an importer, an exporter, or a distributor that has a
5 federal Certificate of Registry issued under § 4101 of the Code must include the
6 registration number of the certificate on the application for a license under this section."

7 **SECTION 29.** G.S. 105-449.70(a) reads as rewritten:

8 "(a) Election. – An applicant for a license as a supplier may elect on the
9 application to collect the excise tax due this State on motor fuel that is removed by the
10 supplier at a terminal located in another state and has this State as its destination state.
11 The Secretary must provide for this election on the application form. A supplier that
12 makes the election allowed by this section is an elective supplier. A supplier that does
13 not make the election allowed by this section is an ~~in-State-only-in-State~~ supplier.

14 A supplier that does not make the election on the application for a supplier's license
15 may make the election later by completing an election form provided by the Secretary.
16 A supplier that does not make the election may not act as an elective supplier for motor
17 fuel that is removed at a terminal in another state and has this State as its destination
18 state."

19 **SECTION 30.** G.S. 105-449.74 reads as rewritten:

20 "**§ 105-449.74. Issuance of license.**

21 Upon approval of an application, the Secretary must issue a license to the applicant.
22 A supplier's license must indicate the category of the supplier. An importer's license
23 must indicate the category of the importer. A license holder must maintain and display a
24 copy of the license issued under this Part in a conspicuous place at each place of
25 business of the license holder. A license is not transferable and remains in effect until
26 surrendered or cancelled."

27 **SECTION 31.** G.S. 105-449.75 reads as rewritten:

28 "**§ 105-449.75. License holder must notify the Secretary of discontinuance of**
29 **business.**

30 A license holder that stops engaging in this State in the business for which the
31 license was issued must give the Secretary written notice of the change and must
32 surrender the license to the Secretary. The notice must give the date the change takes
33 effect and, if the license holder has transferred the business to another by sale or
34 otherwise, the date of the transfer and the name and address of the person to whom the
35 business is transferred.

36 ~~If the~~ The license holder is a supplier, responsible for all taxes for which the ~~supplier~~
37 license holder is liable under this Article but are not yet ~~due become due on the date of~~
38 ~~the change due.~~ If the ~~supplier~~ license holder has transferred the business to another and
39 does not give the notice required by this section, the person to whom the ~~supplier~~
40 license holder has transferred the business is liable for the amount of any tax the
41 ~~supplier~~ license holder owed the State on the date the business was transferred. The
42 liability of the person to whom the business is transferred is limited to the value of the
43 property acquired from the ~~supplier~~ license holder."

44 **SECTION 32.** G.S. 105-449.81 reads as rewritten:

"§ 105-449.81. Excise tax on motor fuel.

An excise tax at the motor fuel rate is imposed on motor fuel that is:

- (1) Removed from a refinery or a terminal and, upon removal, is subject to the federal excise tax imposed by § 4081 of the Code.
- (2) Imported by a system transfer to a refinery or a terminal and, upon importation, is subject to the federal excise tax imposed by § 4081 of the Code.
- (3) Imported by a means of transfer outside the terminal transfer system for sale, use, or storage in this State and would have been subject to the federal excise tax imposed by § 4081 of the Code if it had been removed at a terminal or bulk plant rack in this State instead of imported.
- (3a) Repealed by Session Laws 2007-527, s. 38(a), effective January 1, 2008.
- (3b) Fuel grade ethanol that meets any of the following descriptions:
 - a. Is produced in this State, is removed from the storage facility at the production location, and is not delivered to a terminal in this State.
 - b. Is imported to this State outside the terminal transfer system and is not delivered to a terminal.
 - c. Is removed from a terminal.
- (4) Blended fuel made in this State or imported to this State.
- (5) Transferred within the terminal transfer system and, and is subject, upon transfer, is subject to the federal excise tax imposed by section 4081 of the Code. Code or is transferred to a person who is not licensed under this Article as a supplier."

SECTION 33. G.S. 105-449.82(c) reads as rewritten:

"(c) Terminal Rack Removal. – The excise tax imposed by G.S. 105-449.81(1) on motor fuel removed at a terminal rack in this State is payable by the person that first receives the fuel upon its removal from the terminal. If the motor fuel is removed by an unlicensed distributor, the supplier of the fuel is jointly and severally liable for the tax due on the fuel. If the motor fuel is sold by a person who is not licensed as a supplier, as required by this Article, the terminal operator, the person selling the fuel, and the person removing the fuel are jointly and severally liable for the tax due on the fuel. If the motor fuel removed is not dyed diesel fuel but the shipping document issued for the fuel states that the fuel is dyed diesel fuel, the terminal operator, the supplier, and the person removing the fuel are jointly and severally liable for the tax due on the fuel.

If the motor fuel is removed for export by an unlicensed exporter, the exporter is liable for tax on the fuel at the motor fuel rate and at the rate of the destination state. The liability for the tax at the motor fuel rate applies when the Department assesses the unlicensed exporter for the tax. A supplier who sells motor fuel to a unlicensed exporter is jointly and severally liable for the tax due on the fuel at the motor fuel rate."

SECTION 34. G.S. 105-449.83A reads as rewritten:

"§ 105-449.83A. Liability for tax on fuel grade ethanol.

1 The excise tax imposed by ~~G.S. 105-449.81(3a)~~ G.S. 105-449.81(3b) on fuel grade
2 ethanol removed from a storage facility is payable by the fuel alcohol provider. The
3 excise tax imposed by that subdivision on fuel grade ethanol imported to this State is
4 payable ~~by the importer,~~ by the fuel alcohol provider."

5 **SECTION 35.** G.S. 105-449.84A reads as rewritten:

6 "**§ 105-449.84A. Liability for tax on behind-the-rack transfers.**

7 The excise tax imposed by G.S. 105-449.81(5) on motor fuel that is transferred
8 within the terminal transfer system and is subject to the federal excise tax is payable by
9 the supplier of the fuel, the person receiving the fuel, and the terminal operator of the
10 terminal at which the fuel was transferred, all of whom are jointly and severally liable
11 for the tax. The excise tax imposed by that subdivision on motor fuel that is transferred
12 within the terminal transfer system by a person that is not licensed under this Article as
13 a supplier is payable by the person transferring the motor fuel, the person receiving the
14 motor fuel, and the terminal operation of the terminal at which the fuel was transferred,
15 all of whom are jointly and severally liable for the tax."

16 **SECTION 36.** G.S. 105-449.85 reads as rewritten:

17 "**§ 105-449.85. Compensating tax on and liability for unaccounted for motor fuel**
18 **losses at a terminal.**

19 (a) Tax. – An excise tax at the motor fuel rate is imposed annually on
20 unaccounted for motor fuel losses at a terminal that exceed one-half of one percent
21 (0.5%) of the number of net gallons removed from the terminal during the year by a
22 system transfer or at a terminal rack. To determine if this tax applies, the terminal
23 operator of the terminal must determine the difference between the following:

- 24 (1) The amount of motor fuel in inventory at the terminal at the beginning
25 of the year plus the amount of motor fuel received by the terminal
26 during the year.
27 (2) The amount of motor fuel in inventory at the terminal at the end of the
28 year plus the amount of motor fuel removed from the terminal during
29 the year.

30 (b) Liability. – The terminal operator whose motor fuel is unaccounted for is
31 liable for the tax imposed by this section and is liable for a penalty equal to the amount
32 of tax payable. Motor fuel received by a terminal operator and not shown on an
33 informational return filed by the terminal operator with the Secretary as having been
34 removed from the terminal is presumed to be unaccounted ~~for.~~ for motor fuel. A
35 terminal operator may establish that it can account for motor fuel received at a terminal
36 but not shown on an informational return as having been removed from the terminal if
37 the motor fuel was lost or part of a transmix and is therefore not unaccounted for.
38 transmix."

39 **SECTION 37.** G.S. 105-449.86(b) reads as rewritten:

40 "(b) Liability. – If the distributor of dyed diesel fuel that is taxable under this
41 section is not liable for the tax imposed by this section, the person that acquires the fuel
42 is liable for the tax. The distributor of dyed diesel fuel that is taxable under this section
43 is liable for the tax imposed by this section in the following circumstances:

- 1 (1) When the person acquiring the dyed diesel fuel has storage facilities
2 for the fuel and is therefore a ~~bulk end-user~~ bulk end-user of the fuel.
- 3 (2) When the person acquired the dyed diesel fuel from a retail outlet of
4 the distributor by using an access card or code indicating that the
5 person's use of the fuel is taxable under this section."

6 **SECTION 38.** G.S. 105-449.87(b) reads as rewritten:

7 "(b) General Liability. – The operator of a highway vehicle that uses motor fuel
8 that is taxable under subdivisions (a)(1) through (a)(3) of this section is liable for the
9 tax. If the highway vehicle that uses the fuel is owned by or leased to a motor carrier,
10 the motor carrier is jointly and severally liable for the tax. If the ~~end-seller~~ end-seller of
11 motor fuel taxable under this section knew or had reason to know that the motor fuel
12 would be used for a purpose that is taxable under this section, the ~~end-seller~~ end-seller is
13 jointly and severally liable for the tax. If the Secretary determines that a ~~bulk end-user~~
14 ~~bulk end-user~~ or retailer used or sold untaxed dyed diesel fuel to operate a highway
15 vehicle when the fuel is dispensed from a storage facility or through a meter marked for
16 nonhighway use, all fuel delivered into that storage facility is presumed to have been
17 used to operate a highway vehicle. An ~~end-seller~~ end-seller of dyed diesel fuel is
18 considered to have known or had reason to know that the fuel would be used for a
19 purpose that is taxable under this section if the ~~end-seller~~ end-seller delivered the fuel
20 into a storage facility that was not marked as required by G.S. 105-449.123."

21 **SECTION 39.** G.S. 105-449.89 reads as rewritten:

22 "**§ 105-449.89. ~~Removals by out-of-state bulk end-user.~~ Restrictions on removal of**
23 **motor fuel from terminal.**

24 (a) By Bulk End-User. – An out-of-state ~~bulk end-user~~ bulk end-user may not
25 remove motor fuel from a terminal in this State for use in the state in which the
26 ~~bulk end-user~~ bulk end-user is located unless the ~~bulk end-user~~ bulk end-user is licensed
27 under this Article as an exporter. An out-of-state ~~bulk end-user~~ bulk end-user that is not
28 licensed under this Article may remove motor fuel from a bulk plant in this State.

29 (b) To Marine Vessel. – A supplier may not transfer motor fuel from a terminal
30 to a marine vessel unless the person to whom the supplier transfers the motor fuel is
31 licensed as a supplier."

32 **SECTION 40.** G.S. 105-449.91 reads as rewritten:

33 "**§ 105-449.91. Remittance of tax to supplier.**

34 (a) Distributor. – A distributor must remit tax due on motor fuel removed at a
35 terminal rack to the supplier of the fuel. A licensed distributor has the right to defer the
36 remittance of tax to the supplier, as trustee, until the date the trustee must pay the tax to
37 this State or to another state. The time when an unlicensed distributor must remit tax to
38 a supplier is governed by the terms of the contract between the supplier and the
39 unlicensed distributor.

40 (b) Exporter. – ~~An~~ A licensed exporter must remit tax due on motor fuel removed
41 at a terminal rack to the supplier of the fuel. The time when ~~an~~ a licensed exporter must
42 remit tax to a supplier is governed by the law of the destination state of the exported
43 motor fuel.

1 (c) Importer. – A licensed importer must remit tax due on motor fuel removed at
2 a terminal rack of a permissive or an elective supplier to the supplier of the fuel. A
3 licensed importer that removes fuel from a terminal rack of a permissive or an elective
4 supplier has the right to defer the remittance of tax to the supplier until the date the
5 supplier must pay the tax to this State.

6 (d) General. – A person who removes motor fuel at a terminal rack and is not
7 subject to another subsection in this section must remit tax due on the motor fuel to the
8 supplier of the fuel. The time the person must remit tax to a supplier is governed by the
9 terms of the contract between the supplier and the person.~~The~~

10 ~~The method by which a distributor, a licensed exporter, or a licensed importer~~
11 ~~person must remit tax to a supplier under this section is governed by the terms of the~~
12 ~~contract between the supplier and the distributor, exporter, or licensed importer and the~~
13 ~~supplier. that person. G.S. 105-449.76 governs the cancellation of a license of a~~
14 ~~distributor, an exporter, and an importer."~~

15 **SECTION 41.** G.S. 105-449.96 reads as rewritten:

16 **"§ 105-449.96. Information required on return filed by supplier.**

17 A return of a supplier must list all of the following information and any other
18 information required by the Secretary:

- 19 (1) The number of gallons of tax-paid motor fuel received by the supplier
20 during the month, sorted by type of fuel, ~~seller, point of origin,~~
21 ~~destination state, and carrier.~~fuel.
- 22 (2) The number of gallons of motor fuel removed at a terminal rack during
23 the month from the account of the supplier, sorted by type of fuel,
24 ~~person receiving the fuel, terminal code, and carrier.~~fuel.
- 25 (3) The number of gallons of motor fuel removed during the month for
26 export, sorted by type of fuel, ~~person receiving the fuel, terminal code,~~
27 ~~destination state, and carrier.~~fuel.
- 28 (4) The number of gallons of motor fuel removed during the month at a
29 terminal located in another state for destination to this State, as
30 indicated on the shipping document for the fuel, sorted by type of fuel,
31 ~~person receiving the fuel, terminal code, and carrier.~~fuel.
- 32 (5) The number of gallons of motor fuel the supplier sold during the
33 month to a governmental unit whose use of fuel is exempt from tax,
34 ~~any of the following, sorted by type of fuel, exempt entity, person~~
35 ~~receiving the fuel, terminal code, and carrier.~~fuel.
 - 36 a. ~~A governmental unit whose use of fuel is exempt from the tax.~~
 - 37 b. ~~A licensed distributor or importer that resold the motor fuel to a~~
38 ~~governmental unit whose use of fuel is exempt from the tax, as~~
39 ~~indicated by the distributor or importer.~~
 - 40 e. ~~A licensed exporter that resold the motor fuel to a person whose~~
41 ~~use of fuel is exempt from tax in the destination state, as~~
42 ~~indicated by the exporter.~~

1 (6) The amount of discounts allowed under G.S. 105-449.93(b) on motor
2 fuel sold during the month to licensed distributors or licensed
3 importers.

4 (7) The number of gallons of motor fuel the supplier exchanged during the
5 month with another licensed supplier pursuant to a two-party exchange
6 agreement, sorted by type of fuel, ~~licensed supplier receiving the fuel,~~
7 ~~and terminal code.~~ fuel."

8 **SECTION 42.** G.S. 105-449.97(c) reads as rewritten:

9 "(c) Percentage Discount. – A supplier that sells motor fuel directly to an
10 unlicensed distributor or to the ~~bulk end-user, bulk end-user,~~ the retailer, or the user of
11 the fuel may take the same percentage discount on the fuel that a licensed distributor
12 may take under G.S. 105-449.93(b) when making deferred payments of tax to the
13 supplier."

14 **SECTION 43.** G.S. 105-449.100 reads as rewritten:

15 "**§ 105-449.100. Terminal operator to file informational return showing changes in**
16 **amount of motor fuel at the terminal.**

17 (a) Requirement. – A terminal operator must file a monthly informational return
18 with the Secretary that shows the amount of motor fuel received or removed from the
19 terminal during the month. A terminal operator must report all motor fuel removed from
20 an out-of-state terminal that has this State as its destination state.

21 (b) Content. – The return is due on the ~~same date as~~ a monthly return is due
22 under G.S. 105-449.90. The return must contain the following information and any
23 other information required by the Secretary:

24 (1) The number of gallons of motor fuel received in inventory at the
25 terminal during the month and each position holder for the ~~fuel.~~ fuel,
26 sorted by type of fuel.

27 (2) The number of gallons of motor fuel removed from inventory at the
28 terminal during the month and, for each removal, the position holder
29 for the fuel and the destination state of the ~~fuel.~~ fuel, sorted by type of
30 fuel.

31 (3) The number of gallons of motor fuel gained or lost at the terminal
32 during the month.

33 (4) The number of gallons of motor fuel in inventory at the beginning of
34 each month and at the end of each month.

35 (c) Due Date. – The return is due on the date a monthly return is due under
36 G.S. 105-449.90."

37 **SECTION 44.** G.S. 105-449.101 reads as rewritten:

38 "**§ 105-449.101. Motor fuel transporter to file informational return showing**
39 **deliveries of motor fuel.**

40 (a) Requirement. – A motor fuel transporter that is required to be licensed under
41 this Article must file a monthly informational return with the Secretary that shows
42 motor fuel transported in this State by the transporter during the month.

43 (b) Content. – The return required by this section must contain the following
44 information and any other information required by the Secretary:

- 1 (1) The name and address of each person from whom the transporter
2 received motor fuel outside the State for delivery in the State, the
3 amount of motor fuel received, the date the motor fuel was received,
4 and the destination state of the fuel.
- 5 (2) The name and address of each person from whom the transporter
6 received motor fuel in the State for delivery outside the State, the
7 amount of motor fuel delivered, the date the motor fuel was delivered,
8 and the destination state of the fuel.
- 9 (3) The name and address of each person from whom the transporter
10 received motor fuel in the State for delivery in the State, the amount of
11 motor fuel received, the date the motor fuel was received, and the
12 destination state of the fuel.

13 (c) Due Date. – The return required by this section is due on the ~~same date as a~~
14 ~~monthly return is due under G.S. 105-449.90.~~"

15 **SECTION 45.** G.S. 105-449.102 reads as rewritten:

16 **"§ 105-449.102. Distributor to file return showing exports from a bulk plant.**

17 (a) ~~Return Requirement.~~ – A distributor that exports motor fuel from a bulk
18 plant located in this State must file a monthly return with the Secretary that shows the
19 exports. ~~The return is due on the same date as a monthly return due under~~
20 ~~G.S. 105-449.90.~~ The return serves as a claim for refund by the distributor for tax paid
21 to this State on the exported motor fuel.

22 (b) Content. – The return must contain the following information and any other
23 information required by the Secretary:

- 24 (1) The number of gallons of motor fuel exported during the month.
25 (2) The destination state of the motor fuel exported during the month.
26 (3) A certification that the distributor has paid to the destination state of
27 the motor fuel exported during the month, or will pay on a timely
28 basis, the amount of tax due that state on the fuel.

29 (c) Due Date. – The return is due on the date a monthly return is due under
30 G.S. 105-449.90."

31 **SECTION 46.** G.S. 105-449.105 reads as rewritten:

32 **"§ 105-449.105. ~~Refunds upon application~~ Monthly refunds for tax paid on exempt**
33 **fuel, lost fuel, and accidental mixes that result in fuel unsalable**
34 **unsuitable for highway use.**

35 (a) Exempt Fuel. – An entity whose use of motor fuel is exempt from tax may
36 obtain a monthly refund of any motor fuel excise tax the entity pays on its motor fuel. A
37 person who sells motor fuel to an entity whose use of motor fuel is exempt from tax
38 may obtain a monthly refund of any motor fuel excise tax the person pays on motor fuel
39 it sells to the entity. A credit card company that issues a credit card to an entity whose
40 use of motor fuel is exempt from tax may obtain a monthly refund of any motor fuel
41 excise tax the company pays on motor fuel the entity purchases using the credit card.

42 A person may obtain a monthly refund of tax paid by the person on exported fuel,
43 including fuel whose shipping document shows this State as the destination state but
44 was diverted to another state in accordance with the diversion procedures established by

1 the Secretary. An out-of-state bulk end-user is not allowed a refund on fuel exported
 2 from a bulk plant unless the bulk end-user is licensed as an exporter.

3 (b) Lost Fuel. – A supplier, an importer, or a distributor that loses tax-paid motor
 4 fuel due to damage to a conveyance transporting the motor fuel, fire, a natural disaster,
 5 an act of war, or an accident may obtain a monthly refund for the tax paid on the fuel.

6 (c) Accidental Mixes. – A person that accidentally combines any of the following
 7 may obtain a monthly refund for the amount of tax paid on the fuel:

8 (1) Dyed diesel fuel with tax-paid motor fuel.

9 (2) Gasoline with diesel fuel.

10 (3) Undyed diesel fuel with dyed kerosene.

11 (d) Repealed by Session Laws 1998-98, s. 29.

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

15 **SECTION 47.** G.S. 105-449.105A(a) reads as rewritten:

16 "(a) Refund. – A distributor who sells kerosene to any of the following may obtain
 17 a monthly refund for the excise tax the distributor paid on the kerosene, less the amount
 18 of any discount allowed on the kerosene under G.S. 105-449.93:

19"

20 **SECTION 48.** G.S. 105-449.105A(a)(1) reads as rewritten:

21 "(1) The ~~end-user~~ end-user of the kerosene, if the distributor dispenses the
 22 kerosene into a storage facility of the ~~end-user~~ end-user that contains
 23 fuel used only for one of the following purposes and the storage
 24 facility is installed in a manner that makes use of the fuel for any other
 25 purpose improbable:

26 a. Heating.

27 b. Drying crops.

28 c. A manufacturing process."

29 **SECTION 49.** G.S. 105-449.108(a) reads as rewritten:

30 "(a) Due Dates. – The due dates of applications for refunds are as follows:

Refund Period	Due Date
Annual	April 15 after the end of the year
Quarterly	Last day of the month after the end of the quarter
Monthly	22nd day after the end of the month
Upon Application	Last day of the month after the month in which tax was paid or the event occurred that is the basis of the refund."

40 **SECTION 50.** G.S. 105-449.115(b) reads as rewritten:

41 "(b) Content. – A shipping document issued by a terminal operator or the operator
 42 of a bulk plant must contain the following information and any other information
 43 required by the Secretary:

- 1 (1) Identification, including address, of the terminal or bulk plant from
 2 which the motor fuel was received.
 3 (1a) The type of motor fuel loaded.
 4 (2) The date the motor fuel was loaded.
 5 (3) The gross gallons loaded.
 6 (3a) The motor fuel transporter for the motor fuel.
 7 (4) The destination state of the motor fuel, as represented by the purchaser
 8 of the motor fuel or the purchaser's agent.
 9 (5) If the document is issued by a terminal operator, the document must be
 10 machine printed and it must contain the following information:
 11 a. The net gallons loaded.
 12 b. A tax responsibility statement indicating the name of the
 13 supplier that is responsible for the tax due on the motor fuel."

14 **SECTION 51.** G.S. 105-449.117(a) reads as rewritten:

15 "(a) Violation. – It is unlawful to use dyed diesel fuel or other non-tax-paid fuel in
 16 a highway vehicle that is licensed or required to be licensed under Chapter 20 of the
 17 General Statutes unless that use is allowed under section 4082 of the Code. It is
 18 unlawful to use ~~undyed diesel motor fuel or alternative~~ fuel in a highway vehicle that is
 19 licensed or required to be licensed under Chapter 20 of the General Statutes unless the
 20 tax imposed by this ~~Article~~ Article or Article 36D of this Chapter and the tax imposed
 21 by Article 3 of Chapter 119 of the General Statutes has have been paid. A person who
 22 violates this section is guilty of a Class 1 misdemeanor and is liable for a civil penalty."

23 **SECTION 52.** G.S. 105-449.121(b) reads as rewritten:

24 "(b) Inspection. – The Secretary or a person designated by the Secretary may do
 25 any of the following to determine tax liability under this Article:

- 26 (1) ~~Audit a distributor or~~ a person who is required to have or elects to have
 27 a license under this Article.
 28 (2) Audit a distributor, a retailer, a bulk-end user, or a motor fuel user that
 29 is not licensed under this Article.
 30 (3) Examine a tank or other equipment used to make, store, or transport
 31 motor fuel, diesel dyes, or diesel markers.
 32 (4) Take a sample of a product from a vehicle, a tank, or another container
 33 in a quantity sufficient to determine the composition of the product.
 34 (5) Stop a vehicle for the purpose of taking a sample of motor fuel from
 35 the vehicle."

36 **SECTION 53.** G.S. 105-449.130 reads as rewritten:

37 **"§ 105-449.130. Definitions.**

38 The following definitions apply in this Article:

- 39 (1) Alternative fuel. – A combustible gas or liquid that can be used to
 40 generate power to operate a highway vehicle and that is not subject to
 41 tax under Article 36C of this Chapter.
 42 (1a) ~~Bulk end user.~~ Bulk end-user. – A person who maintains storage
 43 facilities for alternative fuel and uses part or all of the stored fuel to
 44 operate a highway vehicle.

- 1 (2) Highway. – Defined in ~~G.S. 20-4.01(13)~~G.S. 105-449.60.
- 2 (3) Highway vehicle. – Defined in G.S. 105-449.60.
- 3 (4) Motor fuel. – Defined in G.S. 105-449.60.
- 4 (5) Motor fuel rate. – Defined in G.S. 105-449.60.
- 5 (6) Provider of alternative fuel. – A person who does one or more of the
- 6 following:
- 7 a. Acquires alternative fuel for sale or delivery to a ~~bulk end-user~~
- 8 bulk end-user or a retailer.
- 9 b. Maintains storage facilities for alternative fuel, part or all of
- 10 which the person uses or sells to someone other than a ~~bulk end~~
- 11 user-bulk end-user or a retailer to operate a highway vehicle.
- 12 c. Sells alternative fuel and uses part of the fuel acquired for sale
- 13 to operate a highway vehicle by means of a fuel supply line
- 14 from the cargo tank of the vehicle to the engine of the vehicle.
- 15 d. Imports alternative fuel to this State, by a means other than the
- 16 usual tank or receptacle connected with the engine of a highway
- 17 vehicle, for use by that person to operate a highway vehicle.
- 18 (7) Retailer. – A person who maintains storage facilities for alternative
- 19 fuel and who sells the fuel at retail or dispenses the fuel at a retail
- 20 location to operate a highway vehicle."

21 **SECTION 54.** G.S. 105-449.131 reads as rewritten:

22 **"§ 105-449.131. List of persons who must have a license.**

23 A person may not engage in business in this State as any of the following unless the

24 person has a license issued by the Secretary authorizing the person to engage in that

25 business:

- 26 (1) A provider of alternative fuel.
- 27 (2) A ~~bulk end-user~~bulk end-user.
- 28 (3) A retailer."

29 **SECTION 55.** G.S. 105-449.133(a) reads as rewritten:

30 "(a) Who Must Have Bond. – The following applicants for a license must file with

31 the Secretary a bond or an irrevocable letter of credit:

- 32 (1) An alternative fuel provider.
- 33 (2) A retailer or a ~~bulk end-user~~bulk end-user that intends to store
- 34 highway and nonhighway alternative fuel in the same storage facility."

35 **SECTION 56.** G.S. 105-449.137(a) reads as rewritten:

36 "(a) Liability. – A ~~bulk end-user~~bulk end-user or retailer that stores highway and

37 nonhighway alternative fuel in the same storage facility is liable for the tax imposed by

38 this Article. The tax payable by a ~~bulk end-user~~bulk end-user or retailer applies when

39 fuel is withdrawn from the storage facility. The alternative fuel provider that sells or

40 delivers alternative fuel is liable for the tax imposed by this Article on all other

41 alternative fuel."

42 **SECTION 57.** G.S. 105-449.138 reads as rewritten:

43 **"§ 105-449.138. Requirements for ~~bulk end-users~~bulk end-users and retailers.**

1 (a) Informational Return. – A ~~bulk end-user~~ bulk end-user and a retailer must file
2 a quarterly informational return with the Secretary. A quarterly return covers a calendar
3 quarter and is due by the last day of the month that follows the quarter covered by the
4 return.

5 The return must give the following information and any other information required
6 by the Secretary:

7 (1) The amount of alternative fuel received during the quarter.

8 (2) The amount of alternative fuel sold or used during the quarter.

9 (b) Storage. – A ~~bulk end-user~~ bulk end-user or a retailer may store highway and
10 nonhighway alternative fuel in separate storage facilities or in the same storage facility.
11 If highway and nonhighway alternative fuel are stored in separate storage facilities, the
12 facility for the nonhighway fuel must be marked in accordance with the requirements
13 set by G.S. 105-449.123 for dyed diesel storage facilities. If highway and nonhighway
14 alternative fuel are stored in the same storage facility, the storage facility must be
15 equipped with separate metering devices for the highway fuel and the nonhighway fuel.
16 If the Secretary determines that a ~~bulk end-user~~ bulk end-user or retailer used or sold
17 alternative fuel to operate a highway vehicle when the fuel was dispensed from a
18 storage facility or through a meter marked for nonhighway use, all fuel delivered into
19 that storage facility is presumed to have been used to operate a highway vehicle."

20 **SECTION 58.** G.S. 105-449.139(c) reads as rewritten:

21 "(c) Lists. – The Secretary must give a list of licensed alternative fuel providers to
22 each licensed ~~bulk end-user~~ bulk end-user and licensed retailer. The Secretary must also
23 give a list of licensed ~~bulk end-users~~ bulk end-users and licensed retailers to each
24 licensed alternative fuel provider. A list must state the name, account number, and
25 business address of each license holder on the list. The Secretary must send an annual
26 update of a list to each license holder, as appropriate."

27 **SECTION 59.** G.S. 119-15 reads as rewritten:

28 "**§ 119-15. Definitions that apply to Article.**

29 The following definitions apply in this Article:

30 (1) Alternative fuel. – Defined in G.S. 105-449.130.

31 (2) Aviation gasoline. – Defined in G.S. 105-449.60.

32 ~~(1a)~~(3) Dyed diesel fuel. – Defined in G.S. 105-449.60.

33 ~~(1b)~~(4) Dyed diesel fuel distributor. – A person who acquires dyed diesel
34 fuel from either of the following:

35 a. A person who is not required to be licensed under Part 2 of
36 Article 36C of Chapter 105 of the General Statutes and who
37 maintains storage facilities for dyed diesel fuel to be used for
38 nonhighway purposes.

39 b. Another dyed diesel fuel distributor.

40 ~~(2)~~(5) Gasoline. – Defined in G.S. 105-449.60.

41 (6) Jet fuel. – Defined in G.S. 105-449.60.

42 ~~(3)~~(7) Kerosene. – Defined in G.S. 105-449.60. ~~Petroleum oil that is free~~
43 ~~from water, glue, and suspended matter and that meets the~~

1 specifications and standards adopted by the Gasoline and Oil
2 Inspection Board.

3 ~~(3a)~~(8) Kerosene distributor. – A person who acquires kerosene from any
4 of the following for subsequent sale:

- 5 a. A supplier licensed under Part 2 of Article 36C of Chapter 105
6 of the General Statutes.
7 b. A kerosene supplier.
8 c. Another kerosene distributor.

9 ~~(3b)~~(9) Kerosene supplier. – Either of the following:

- 10 a. A person who supplies both kerosene and motor fuel and,
11 consequently, is required to be licensed under Part 2 of Article
12 36C of Chapter 105 of the General Statutes.
13 b. A person who is not required to be licensed as a supplier under
14 Part 2 of Article 36C of Chapter 105 of the General Statutes and
15 who maintains storage facilities for kerosene to be used to fuel
16 an airplane.

17 ~~(4)~~(10) Motor fuel. – Defined in G.S. 105-449.60.

18 ~~(5)~~(11) Person. – Defined in G.S. 105-229.90.

19 ~~(6)~~(12) Terminal. – Defined in G.S. 105-449.60.

20 ~~(7)~~(13) Terminal operator. – Defined in G.S. 105-449.60."

21 **SECTION 60.** G.S. 119-18(a) reads as rewritten:

22 "(a) Tax. – An inspection tax of one fourth of one cent (1/4 of 1¢) per gallon is
23 levied upon all of the fuel listed in this subsection regardless of whether the fuel is
24 exempt from the per-gallon excise tax imposed by Article 36C or 36D of Chapter 105 of
25 the General Statutes. The inspection tax on motor fuel is due and payable to the
26 Secretary of Revenue ~~at the same time that~~ on the date the per gallon excise tax on
27 motor fuel is due and payable under Article 36C of Chapter 105 of the General Statutes.
28 The inspection tax on alternative fuel is due and payable to the Secretary of Revenue ~~at~~
29 ~~the same time that~~ on the date the excise tax on alternative fuel is due and payable under
30 Article 36D of Chapter 105 of the General Statutes. The inspection tax on kerosene is
31 payable monthly to the Secretary by a supplier that is licensed under Part 2 of Article
32 36C of Chapter 105 of the General Statutes and by a kerosene supplier. A monthly
33 report is due on the ~~same date as~~ a monthly return is due under G.S. 105-449.90 and
34 applies to kerosene sold during the preceding month by a supplier licensed under that
35 Part and to kerosene received during the preceding month by a kerosene supplier. A
36 kerosene terminal operator must file a return in accordance with the provisions of
37 G.S. 105-449.90. The inspection tax on jet fuel and aviation gasoline is payable as
38 specified by the Secretary of Revenue.

39 (1) Motor fuel.

40 (2) Alternative fuel used to operate a highway vehicle.

41 (3) Kerosene.

42 (4) Jet fuel.

43 (5) Aviation gasoline."

1 **COMBINED MV REGISTRATION AND PROPERTY TAX SYSTEM**
2 **CHANGES**

3 **SECTION 61.** G.S. 105-330.2(c) is repealed.

4 **SECTION 62.** G.S. 105-330.3 reads as rewritten:

5 **"§ 105-330.3. Assessor's duty to list classified motor vehicles; application for**
6 **exempt status.**

7 (a) (1) Registered Vehicles. The assessor shall list, appraise, and assess all
8 taxable classified motor vehicles for county, municipal, and special
9 district taxes each year in the name of the record owner as of the day
10 on which the current vehicle registration is renewed or the day on
11 which a new registration is applied for. The owner of a classified
12 motor vehicle listed pursuant to this subdivision need not list the
13 vehicle as provided in G.S. 105-306; G.S. 105-312 does not apply to
14 classified motor vehicles listed pursuant to this subdivision.

15 (2) Unregistered Vehicles. The owner of a classified motor vehicle who
16 does not register the vehicle or does not renew the registration of the
17 vehicle on or before the expiration date of the current registration shall
18 list the vehicle for taxes by filing an abstract with the assessor of the
19 county in which the vehicle is located on or before January 31
20 following the date the unregistered vehicle is acquired or, in the case
21 of a registration that is not renewed, January 31 following the date the
22 registration expires, and on or before January 31 of each succeeding
23 year that the vehicle is unregistered. If a classified motor vehicle listed
24 pursuant to this section is registered during the calendar year in which
25 it was listed, it shall be taxed for the fiscal year that opens in the
26 calendar year of listing as an unregistered vehicle. A vehicle required
27 to be listed pursuant to this subdivision that is not listed by January 31
28 shall be subject to discovery pursuant to ~~G.S. 105-312~~. G.S. 105-312,
29 unless the vehicle has been taxed as a registered vehicle for the current
30 year.

31 (b) The owner of a classified motor vehicle who claims an exemption or
32 exclusion from tax under this Subchapter has the burden of establishing that the vehicle
33 is entitled to the exemption or exclusion. The owner may establish prima facie
34 entitlement to exemption or exclusion of the classified motor vehicle by filing an
35 application for exempt status with the assessor. When an approved application is on file,
36 the assessor shall omit from the tax records classified motor vehicles described in the
37 application. An application is not required for vehicles qualifying for exemptions or
38 exclusions listed in G.S. 105-282.1(a)(1).

39 (c) The owner of a classified motor vehicle that has been omitted from the tax
40 records as provided in subsection (b) shall report to the assessor any classified motor
41 vehicle registered in the owner's name or owned by him that does not qualify for
42 exemption or exclusion for the current year. This report shall be made within 30 days
43 after the renewal of registration or initial registration of the vehicle or, for an
44 unregistered vehicle, on or before January 31 of the year in which the vehicle is required

1 to be listed by subdivision (a)(2). A classified motor vehicle that does not qualify for
2 exemption or exclusion but has been omitted from the tax records as provided in
3 subsection (b) is subject to discovery under the provisions of G.S. 105-312, except that
4 in lieu of the penalties prescribed by G.S. 105-312(h) there shall be assessed a penalty
5 of one hundred dollars (\$100.00) for each registration period that elapsed before the
6 disqualification was discovered.

7 (d) The provisions of G.S. 105-282.1 do not apply to classified motor vehicles."

8 **SECTION 63.** G.S. 105-330.10 reads as reads as rewritten:

9 **"§ 105-330.10. (Effective until January 1, 2010) Disposition—Combined Motor**
10 **Vehicle and Registration Account; disposition of interest.**

11 ~~Sixty percent (60%) of the first month's interest collected on unpaid taxes pursuant~~
12 ~~to G.S. 105-330.4 shall be transferred on a monthly basis to the Combined Motor~~
13 ~~Vehicle and Registration Account created within the Treasurer's Office. Interest~~
14 ~~generated by the funds in the Combined Motor Vehicle and Registration Account shall~~
15 ~~be credited to the Account. The Office of State Budget and Management shall direct the~~
16 ~~Treasurer to distribute the funds in the Account to the Division of Motor Vehicles for~~
17 ~~the purpose of developing and implementing an integrated computer system within the~~
18 ~~Division of Motor Vehicles that would allow for the combined assessment, billing, and~~
19 ~~collection of property taxes on motor vehicles and the issuance of registration plates.~~
20 ~~Funds in the Account shall not be transferred by the Office of State Budget and~~
21 ~~Management and appropriated by the General Assembly until the Department of~~
22 ~~Transportation and the North Carolina Association of County Commissioners reach~~
23 ~~agreement on a project plan for the integrated system. The Treasurer shall report to the~~
24 ~~Revenue Laws Study Committee semiannually with the first report due by April 30,~~
25 ~~2006. The report shall contain a detailed description of the amount of moneys~~
26 ~~transferred to the Account and distributed from the Account. Any funds remaining in~~
27 ~~the Account after the integrated computer system has been certified to be in operation~~
28 ~~shall be distributed to the local governments on a pro rata basis determined by the first~~
29 ~~month's interest collected on the unpaid taxes on classified motor vehicles and paid into~~
30 ~~the Account by each local government.~~

31 (a) Account. – The Combined Motor Vehicle and Registration Account is
32 established as a nonreverting account within the Department of State Treasurer. A
33 taxing unit must remit to the Department of State Treasurer for deposit into the Account
34 sixty percent (60%) of the first month's interest collected under G.S. 105-330.4 on
35 unpaid property taxes on classified and registered motor vehicles. The taxing unit must
36 make the remittance on a monthly basis. Interest earned by the Account accrues to the
37 Account.

38 (b) Use. – Funds in the Account may be used only to develop and implement an
39 integrated computer system within the Division of Motor Vehicles of the Department of
40 Transportation that provides the functions needed for the assessment, billing, and
41 collection of both the property taxes and the vehicle registration fees due on motor
42 vehicles. The funds may not be transferred to the Division and expended for this
43 purpose until the Department of Transportation and the North Carolina Association of
44 County Commissioners agree on the project plan for the integrated system and the

1 General Assembly appropriates the funds to the Division. If funds remain in the
2 Account after the operation of the integrated system is certified, the remaining funds
3 must be distributed to local governments on a pro rata basis determined on the amount
4 of revenue each local government transferred to the Account.

5 (c) Report. – The Treasurer must make an annual report on the Account to the
6 Revenue Laws Study Committee. The report must be submitted by November 1 of each
7 year and must state the total amount of revenue transferred by local governments to the
8 Account during the preceding fiscal year, the amount expended from the Account
9 during the preceding fiscal year, and any other information requested by the
10 Committee."

11 **SECTION 64.** Article 22A of Chapter 105 of the General Statutes is
12 amended by adding a new section to read:

13 **"§ 105-330.11. Memorandum of understanding.**

14 The Department of Revenue, acting through the Property Tax Division, and the
15 Department of Transportation, acting through the Division of Motor Vehicles are
16 directed to enter into a memorandum of understanding concerning the administration of
17 this Article. The memorandum of understanding must include the following:

- 18 (1) A procedure for the administration of the listing, appraisal, and
19 assessment of classified motor vehicles.
- 20 (2) Information concerning vehicle identification, identification of a
21 vehicle owner by name and address, and other information that will be
22 required on a motor vehicle registration form to implement the tax
23 listing and collection provisions of this Article.
- 24 (3) A procedure for the business practices, accounting, and costs of
25 carrying out the integrated computer system for registration renewal
26 and property tax collection for motor vehicles once the system has
27 been certified to be in operation by the Department of Revenue and the
28 Department of Transportation. The Departments must consult with the
29 North Carolina Association of County Commissioners, acting on
30 behalf of the counties, and the North Carolina League of
31 Municipalities, acting on behalf of the municipalities, in developing
32 the procedures under this subdivision and obtain their signed
33 endorsements before any part of this procedure is implemented."

34 **SECTION 65.** Section 13 of S.L. 2005-294, as amended by Section 31.5 of
35 S.L. 2006-259 and Section 22(c) of S.L. 2007-527, reads as rewritten:

36 **"SECTION 13.** Sections 4 and 8 of this act become effective January 1, 2006.
37 Sections 1, 2, 3, 5, 6, 7, 10 and 11 of this act become effective ~~July 1, 2010,~~July 1,
38 2011, or when the Division of Motor Vehicles of the Department of Transportation and
39 the Department of Revenue certify that the integrated computer system for registration
40 renewal and property tax collection for motor vehicles is in operation, whichever occurs
41 first. Sections 12 and 13 of this act are effective when they become law. Nothing in this
42 act shall require the General Assembly to appropriate funds to implement it for the
43 biennium ending June 30, 2007."

44 **SECTION 66.** Section 22(d) of S.L. 2007-527 reads as rewritten:

1 "SECTION 22.(d) Subsection (c) of this section becomes effective ~~January 1,~~
2 ~~2010.~~ January 1, 2011, or when the Division of Motor Vehicles of the Department of
3 Transportation and the Department of Revenue certify that the integrated computer
4 system for registration renewal and property tax collection for motor vehicles is in
5 operation, whichever occurs first. The remainder of this section is effective when it
6 becomes law."

7 OTHER CHANGES

8 SECTION 67.(a) G.S. 105-113.112 reads as rewritten:

9 "§ 105-113.112. Confidentiality of information.

10 Information obtained by the Department in the course of administering the tax
11 imposed by this Article, including information on whether the Department has issued a
12 revenue stamp to a person, is confidential tax information and is subject to the following
13 restrictions on disclosure:

- 14 (1) G.S. 105-259 prohibits the disclosure of the information, except in the
15 limited circumstances provided in that statute.
- 16 (2) The information may not be used as evidence, as defined in
17 G.S. 15A-971, in a criminal prosecution for an offense other than an
18 offense under this Article or under Article 9 of this Chapter. Under this
19 prohibition, no officer, employee, or agent of the Department may
20 testify about the information in a criminal prosecution for an offense
21 other than an offense under this Article or under Article 9 of this
22 Chapter. This subdivision implements the protections against double
23 jeopardy and self-incrimination set out in Amendment V of the United
24 States Constitution and the restrictions in it apply regardless of
25 whether information may be disclosed under G.S. 105-259. This
26 subdivision does not apply to information obtained from a source other
27 than an employee, officer, or agent of the Department. This
28 subdivision does not prohibit testimony by an officer, employee, or
29 agent of the Department concerning an offense committed against that
30 individual in the course of administering this Article. An officer,
31 employee, or agent of the Department who provides evidence or
32 testifies in violation of this subdivision is guilty of a Class 1
33 misdemeanor."

34 SECTION 67.(b) This section becomes effective December 1, 2008, and
35 applies to offenses committed on or after that date.

36 SECTION 68. G.S. 105-251 reads as rewritten:

37 "§ 105-251. ~~Type of information a taxpayer must provide.~~ Information required of 38 taxpayer and corrections based on information.

39 (a) Scope of Information. – A taxpayer must give information to the Secretary
40 when the Secretary requests the information. The Secretary may request a taxpayer to
41 provide only the following kinds of information on a return, a report, or otherwise:

- 42 (1) Information that identifies the taxpayer.
- 43 (2) Information needed to determine the liability of the taxpayer for a tax.
- 44 (3) Information needed to determine whether an item is subject to a tax.

- 1 (4) Information that enables the Secretary to collect a tax.
- 2 (5) Other information the law requires a taxpayer to provide or the
- 3 Secretary needs to perform a duty a law requires the Secretary to
- 4 perform.

5 (b) Correction of Liability. – When a taxpayer provides information to the
 6 Secretary within the statute of limitations and the information establishes that an
 7 assessment against the taxpayer is incorrect or that the taxpayer is allowed a refund, the
 8 Secretary must adjust the assessment or issue the refund in accordance with the
 9 information. This action is a correction of an error by the Department or by the taxpayer
 10 and is not part of the process for the administrative or judicial review of a proposed
 11 assessment or a claim for refund."

12 **SECTION 69.** G.S. 105-275(29) reads as rewritten:

13 "(29) Real property and easements wholly and exclusively held and used for
 14 nonprofit historic preservation purposes by a nonprofit historical
 15 association or institution, including real property owned by a nonprofit
 16 corporation organized for historic preservation purposes and held by
 17 its owner exclusively for sale under an historic preservation agreement
 18 to be prepared and ~~recorded~~ recorded, at the time of sale, under the
 19 provisions of the Conservation and Historic Preservation Agreements
 20 Act, Article 4, Chapter 121 of the General Statutes of North Carolina."

21 **SECTION 70.(a)** Part 2D of Article 10 of Chapter 143B of the General
 22 Statutes is repealed.

23 **SECTION 70.(b)** G.S. 66-58(b)(21) is repealed.

24 **SECTION 70.(c)** G.S. 120-123(72) is repealed.

25 **SECTION 70.(d)** G.S. 126-5(c1)(20) is repealed.

26 **SECTION 70.(e)** G.S. 143B-437.45 reads as rewritten:

27 **"§ 143B-437.45. Definitions.**

28 The following definitions apply in this Part:

- 29 ...
- 30 (5) ~~Regional Partnerships. As defined in G.S. 143B-437.21(6).~~
 31 partnership. – Any of the following:
 - 32 a. The Western North Carolina Regional Economic Development
 33 Commission created in G.S. 158-8.1.
 - 34 b. The North Carolina's Northeast Commission created in
 35 G.S. 158-8.2.
 - 36 c. The Southeastern North Carolina Regional Economic
 37 Development Commission created in G.S. 158-8.3.
 - 38 d. The North Carolina's Eastern Region Development Commission
 39 created in G.S. 158-35.
 - 40 e. The Charlotte Regional Partnership, Inc.
 - 41 f. The Research Triangle Regional Partnership.
 - 42 g. The Piedmont Triad Partnership.

43"

44 **SECTION 71.** G.S. 105-538 reads as rewritten:

1 **"§ 105-538. Administration of taxes.**

2 Except as provided in this Article, the adoption, levy, collection, administration, and
3 repeal of these additional taxes must be in accordance with Article 39 of this Chapter.
4 G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied
5 under this Article does not apply to the sales price of food that is exempt from tax
6 pursuant to G.S. 105-164.13B. The Secretary shall not divide the amount allocated to a
7 county between the county and the municipalities within the county. Notwithstanding
8 the provisions of G.S. ~~105-467(e)~~, 105-466(c), during the 2008 calendar year a tax
9 levied under this Article may become effective on the first day of any calendar quarter
10 so long as the county gives the Secretary at least 60 days' advance notice of the new tax
11 levy."

12 **SECTION 72.(a)** Part 1 of Article 16 of Chapter 153A of the General
13 Statutes is amended by adding a new section to read:

14 **"§ 153A-304.4. Reduction in law enforcement service district after annexation.**

15 When any portion of a county law enforcement service district organized under
16 G.S. 153A-301(10) is annexed by a municipality, and the effective date of the
17 annexation is a date other than a date in the month of June, the amount of the county
18 law enforcement service district tax levied on each parcel of real property in the district
19 for the fiscal year in which municipal taxes are prorated under G.S. 160A-58.10 shall be
20 multiplied by the following fraction: the denominator shall be 12 and the numerator
21 shall be the number of full calendar months remaining in the fiscal year following the
22 day on which the annexation becomes effective. For each parcel of real property in the
23 portion of the district that is annexed, the product of the multiplication is the amount of
24 the law enforcement service district tax to be refunded if the taxes have been paid, or
25 released if the taxes have not been paid. The finance officer of the county shall obtain
26 from the assessor or tax collector of the county a list of the owners of the real property
27 on which law enforcement service district taxes were levied in the territory annexed,
28 and the county shall pay the refund amount, if applicable, to the owner as shown on the
29 records of the tax assessor of the real property as of the January 1 immediately
30 preceding the date of the refund. Refund payments shall come from any funds not
31 otherwise restricted by law."

32 **SECTION 72.(b)** G.S. 153A-304.1(c) reads as rewritten:

33 "(c) When all or part of a county service district is annexed, and the effective date
34 of the annexation is a date other than a date in the month of June, the amount of the
35 county service district tax levied on property in the district for the fiscal year in which
36 municipal taxes are prorated under G.S. 160A-58.10 shall be multiplied by the
37 following fraction: the denominator shall be 12 and the numerator shall be the number
38 of full calendar months remaining in the fiscal year following the day on which the
39 annexation becomes effective. For each owner, the product of the multiplication is the
40 prorated fire protection payment. The finance officer of the city shall obtain from the
41 ~~tax supervisor~~ assessor or tax collector of the county where the annexed territory was
42 located a list of the owners of property on which fire protection district taxes were
43 levied in the territory being annexed, and the city shall, no later than 90 days after the
44 effective date of the annexation, pay the amount of the prorated fire protection district

1 payment to the owners of that property. Such payments shall come from any funds not
2 otherwise restricted by law."

3 **SECTION 72.(c)** G.S. 153A-301(10) reads as rewritten:

4 "(10) Law enforcement if all of the following apply:

- 5 a. The population of the county is over 500,000 according to the
6 most recent federal decennial census.
7 b. The county has an interlocal agreement with a city in the county
8 under which the city provides law enforcement services in the
9 entire unincorporated area of the county.
10 e. ~~The county will pay to the city the following percentages of the~~
11 ~~city-county police department budget if there are no significant~~
12 ~~changes to the city's statutory annexation authority:~~
13 1. ~~9.60% for fiscal years 1995-96 and 1996-97.~~
14 2. ~~7.60% for fiscal years 1997-98 and 1998-99.~~
15 3. ~~5.60% for fiscal years 1999-2000 and 2000-2001.~~
16 4. ~~3.60% for fiscal years 2001-02 and 2002-03.~~
17 5. ~~1.60% for fiscal years 2003-04 and 2004-05.~~

18 ~~Provided, if the difference between the ratio of the population in~~
19 ~~the unincorporated area to the total population served by the~~
20 ~~city-county police department and the rate for the current year~~
21 ~~as stated above is greater than fifteen percent (15%), the~~
22 ~~county's agreement to pay such percentages can be amended to~~
23 ~~reflect that difference."~~

24 **SECTION 72.(d)** Subsection (a) of this section applies to annexations in
25 fiscal year 2006-2007 or a subsequent fiscal year. The remainder of this section is
26 effective when it becomes law.

27 **SECTION 73.** G.S. 158-12.1 reads as rewritten:

28 "**§ 158-12.1. Commission funds secured.**

29 The Western North Carolina Regional Economic Development Commission,
30 Research Triangle Regional ~~Commission, Partnership,~~ Southeastern North Carolina
31 Regional Economic Development Commission, Piedmont Triad Partnership, North
32 Carolina's Northeast Commission, North Carolina's Eastern Region Development
33 Commission, and Carolinas Partnership, Inc., may deposit money at interest in any
34 bank, savings and loan association, or trust company in this State in the form of savings
35 accounts, certificates of deposit, or such other forms of time deposits as may be
36 approved for county governments. Investment deposits and money deposited in an
37 official depository or deposited at interest shall be secured in the manner prescribed in
38 G.S. 159-31(b). When deposits are secured in accordance with this section, no public
39 officer or employee may be held liable for any losses sustained by an institution because
40 of the default or insolvency of the depository. This section applies to the regional
41 economic development commissions listed in this section only for as long as the
42 commissions are receiving State funds."

43 **EFFECTIVE DATES**

1 **SECTION 74.** Sections 16 through 60 of this act become effective January
2 1, 2009. Except as otherwise provided, the remainder of this act is effective when it
3 becomes law.