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HOUSE BILL 399*
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Short Title: Highway Trust Fund/General Fund Revenue. (Public)

Sponsors:

Referred to:

February 28, 1989

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

6 The General Assembly of North Carolina enacts:

7 CONTENTS

- 8 I. NORTH CAROLINA HIGHWAY TRUST FUND
9 II. CERTIFICATE OF TITLE FEE/ALTERNATE TRANSPORTATION
10 FUNDING
11 III. SALES TAX CHANGES
12 IV. MOTOR VEHICLE USE TAX
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14 VI. ESTIMATED INCOME TAX AMENDMENTS
15 VII. EFFECTIVE DATES

16 PART I.

17 HIGHWAY TRUST FUND.

18 Section 1.1. Chapter 136 of the General Statutes is amended by adding a new
19 Article to read:

20 "ARTICLE 14.

"NORTH CAROLINA HIGHWAY TRUST FUND.**"§ 136-175. Definitions.**

The following definitions apply in this Article:

- (1) Intrastate System. The network of major, multilane arterial highways composed of those projects listed in G.S. 136-179, I-240, I-277, US-29 from I-85 to the Virginia line, and any other route added by the Department of Transportation under G.S. 136-178.
- (2) Transportation Improvement Program. The schedule of major transportation improvement projects required by G.S. 143B-350(f)(4).
- (3) Trust Fund. The North Carolina Highway Trust Fund.

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

(a) A special account, designated the North Carolina Highway Trust Fund, is created within the State treasury. The Trust Fund consists of the following revenue:

- (1) Motor fuel, special fuel, and road tax revenue deposited in the Fund under G.S. 105-445, 105-449.16, and 105-449.43 respectively.
- (2) Motor vehicle use tax deposited in the Fund under G.S. 105-171.
- (3) Revenue from the fee payable when a certificate of title is issued for a motor vehicle under G.S. 20-85.
- (4) Revenue available from the retirement of refunding bonds issued to repay highway construction bonds and deposited in the Fund under G.S. 136-183.
- (5) Interest and income earned by the Fund.

(b) Funds in the Trust Fund are annually appropriated to the Department of Transportation to be allocated and used as provided in this subsection. A sum, not to exceed five percent (5%) of the amount of revenue deposited in the fund under subdivisions (a)(1), (2), and (3) of this section may be used each fiscal year by the Department for expenses to administer the Trust Fund. The rest of the funds in the Trust Fund shall be allocated and used as follows:

- (1) Sixty-one and ninety-five hundredths percent (61.95%) to plan, design, and construct the projects of the Intrastate System described in G.S. 136-179.
- (2) Twenty-five and five hundredths percent (25.05%) to plan, design, and construct the urban loops described in G.S. 136-180.
- (3) Six and one-half percent (6.5%) to supplement the appropriation to cities for city streets under G.S. 136-181.
- (4) Six and one-half percent (6.5%) for secondary road construction as provided in G.S. 136-182.

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

(d) Contracts may be let for projects funded from the Trust Fund in anticipation of revenues pursuant to the cash-flow provisions of G.S. 143-28.1.

"§ 136-177. Limitation on funds obligated from Trust Fund.

In a fiscal year, the Department of Transportation may not obligate more Trust Fund revenue, other than revenue allocated for city streets under G.S. 136-176(b)(3), to construct or improve highways than the amount indicated in the following table:

<u>Fiscal Year</u>	<u>Maximum Expenditure</u>
<u>1989-90</u>	<u>\$200,000,000</u>
<u>1990-91</u>	<u>250,000,000</u>
<u>1991-92</u>	<u>300,000,000</u>
<u>1992-93</u>	<u>400,000,000</u>
<u>1993-94</u>	<u>500,000,000</u>
<u>1994-95 and following years</u>	<u>Unlimited</u>

The amount of revenue credited to the Trust Fund in a fiscal year under G.S. 136-176(a) that exceeds the maximum allowable expenditure set in the table above may be used only for preliminary planning and design and the acquisition of rights-of-way for scheduled highways and highway improvements to be funded from the Trust Fund.

"§ 136-178. Purpose of Intrastate System.

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

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

"§ 136-179. Projects of Intrastate System funded from Trust Fund.

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

<u>Route</u>	<u>Improvements</u>	<u>Affected Counties</u>
<u>I-40</u>	<u>Widening</u>	<u>Buncombe, Haywood, Guilford, Wake, Durham</u>
<u>I-77</u>	<u>Widening</u>	<u>Mecklenburg</u>
<u>I-85</u>	<u>Widening</u>	<u>Durham, Orange, Alamance, Guilford, Cabarrus, Mecklenburg, Gaston</u>

1	<u>I-95</u>	<u>Widening</u>	<u>Halifax</u>
2			
3	<u>US-1</u>	<u>Complete 4-laning from</u>	<u>Vance, Franklin,</u>
4		<u>Henderson to South</u>	<u>Wake, Chatham, Lee,</u>
5		<u>Carolina Line</u>	<u>Moore, Richmond</u>
6		<u>(including 6-laning of</u>	
7		<u>Raleigh Beltline)</u>	
8			
9	<u>US-13</u>	<u>Connector from I-95</u>	<u>Cumberland</u>
10		<u>to NC-87</u>	
11			
12	<u>US-13</u>	<u>Complete 4-laning from</u>	<u>Gates, Hertford,</u>
13		<u>Virginia Line to US-17</u>	<u>Bertie</u>
14			
15	<u>US-17</u>	<u>Complete 4-laning from</u>	<u>Camden, Pasquotank,</u>
16		<u>Virginia Line to South</u>	<u>Perquimans, Chowan,</u>
17		<u>Carolina Line (including</u>	<u>Bertie, Martin,</u>
18		<u>Washington, New Bern,</u>	<u>Beaufort, Craven,</u>
19		<u>and Jacksonville</u>	<u>Jones, Onslow,</u>
20		<u>Bypasses)</u>	<u>Pender, New Hanover,</u>
21	<u>Brunswick</u>		
22			
23	<u>US-19/</u>	<u>Complete 4-laning from</u>	<u>Madison, Yancey,</u>
24	<u>US-19E</u>	<u>US-23 to NC 194 in</u>	<u>Mitchell, Avery</u>
25		<u>Ingalls</u>	
26			
27	<u>US-19</u>	<u>Complete 4-laning</u>	<u>Cherokee, Macon,</u>
28			<u>Swain</u>
29			
30	<u>US-23</u>	<u>Complete 4-laning and</u>	<u>Madison, Buncombe</u>
31		<u>upgrading existing</u>	
32		<u>4-lanes from Tennessee</u>	
33		<u>Line to I-240</u>	
34			
35	<u>US-23-441</u>	<u>Complete 4-laning from</u>	<u>Macon</u>
36		<u>US-19/US-74 to Georgia</u>	
37		<u>Line</u>	
38			
39	<u>US-52</u>	<u>Complete 4-laning from</u>	<u>Surry, Davidson</u>
40		<u>I-77 to Lexington</u>	
41		<u>(including new I-77</u>	
42		<u>Connector)</u>	
43			
44	<u>US-64</u>	<u>Complete 4-laning from</u>	<u>Edgecombe, Pitt,</u>

1		<u>Raleigh to Coast</u>	<u>Martin, Washington,</u>
2		<u>(including freeway</u>	<u>Tyrrell, Dare</u>
3		<u>construction from I-95</u>	
4		<u>to US-17)</u>	
5			
6	<u>US-64</u>	<u>Complete 4-laning from</u>	<u>Davidson, Randolph,</u>
7		<u>Lexington to Raleigh</u>	<u>Chatham, Wake</u>
8			
9	<u>US-70</u>	<u>Complete 4-laning from</u>	<u>Wake, Johnston,</u>
10		<u>Raleigh to Morehead City</u>	<u>Wayne, Lenoir,</u>
11		<u>(including Clayton,</u>	<u>Craven</u>
12		<u>Goldsboro, Kinston,</u>	
13		<u>Smithfield-Selma, and</u>	
14		<u>Havelock Bypasses)</u>	
15			
16	<u>US-74</u>	<u>Complete 4-laning from</u>	<u>Mecklenburg, Union,</u>
17		<u>Charlotte to US-17</u>	<u>Richmond, Robeson,</u>
18		<u>(including multilaning</u>	<u>Columbus</u>
19		<u>of Independence Blvd. in</u>	
20		<u>Charlotte, and Bypasses</u>	
21		<u>of Monroe, Rockingham,</u>	
22		<u>and Hamlet)</u>	
23			
24	<u>US-74</u>	<u>Complete 4-laning from</u>	<u>Polk, Rutherford</u>
25		<u>I-26 to I-85</u>	
26			
27	<u>US-158</u>	<u>Complete 4-laning</u>	<u>Forsyth, Guilford,</u>
28		<u>from Winston-Salem</u>	<u>Rockingham, Caswell,</u>
29		<u>to Whalebone</u>	<u>Person, Granville,</u>
30			<u>Vance, Warren,</u>
31			<u>Halifax,</u>
32			<u>Northampton, Gates,</u>
33			<u>Hertford,</u>
34			<u>Pasquotank, Camden,</u>
35			<u>Currituck, Dare</u>
36			
37		<u>New bridge over</u>	<u>Currituck</u>
38		<u>Currituck Sound</u>	
39			
40	<u>US-221</u>	<u>Complete 4-laning from</u>	<u>Avery, McDowell,</u>
41		<u>Linville to South</u>	<u>Rutherford</u>
42		<u>Carolina</u>	
43			
44	<u>US-220</u>	<u>Complete 4-laning from</u>	<u>Guilford, Randolph,</u>

1		<u>I-40 to US-1</u>	<u>Montgomery, Richmond</u>
2			
3	<u>US-220/NC-68</u>	<u>Complete 4-laning from</u>	<u>Rockingham, Guilford</u>
4		<u>Virginia Line to I-40</u>	
5			
6	<u>US-264</u>	<u>Complete 4-laning from</u>	<u>Wilson, Greene,</u>
7		<u>US-64 to Washington</u>	<u>Pitt</u>
8		<u>(including Wilson and</u>	
9		<u>Greenville Bypasses)</u>	
10		<u>(including freeway</u>	
11		<u>construction from I-95</u>	
12		<u>to Greenville)</u>	
13			
14	<u>US-321</u>	<u>Complete 4-laning from</u>	<u>Caldwell, Catawba,</u>
15		<u>Boone to South Carolina</u>	<u>Lincoln, Gaston</u>
16		<u>Line</u>	
17			
18	<u>US-421</u>	<u>Complete 4-laning from</u>	<u>Watauga, Wilkes,</u>
19		<u>Tennessee Line to I-40</u>	<u>Yadkin</u>
20			
21	<u>US-421</u>	<u>Complete 4-laning from</u>	<u>Chatham, Lee</u>
22		<u>Greensboro to Sanford</u>	
23		<u>(including Bypass of</u>	
24		<u>Sanford)</u>	
25			
26	<u>NC-24</u>	<u>Complete 4-laning from</u>	<u>Mecklenburg,</u>
27		<u>Charlotte to Morehead</u>	<u>Cabarrus, Stanly,</u>
28		<u>City</u>	<u>Montgomery, Moore,</u>
29			<u>Harnett, Cumberland,</u>
30			<u>Sampson, Duplin,</u>
31			<u>Onslow, Carteret</u>
32			
33	<u>NC-87</u>	<u>Complete 4-laning from</u>	<u>Lee, Harnett,</u>
34		<u>Sanford to US-74</u>	<u>Cumberland, Bladen,</u>
35			<u>Columbus</u>
36			
37	<u>NC-105</u>	<u>Complete 4-laning from</u>	<u>Watauga, Avery</u>
38		<u>Boone to Linville</u>	
39			
40	<u>NC-168</u>	<u>Complete multilaning</u>	<u>Currituck</u>
41		<u>from Virginia Line</u>	
42		<u>to US-158</u>	
43			
44	<u>NC-194</u>	<u>Complete 4-laning from</u>	<u>Avery</u>

1 US-19E to US-221

2 **"§ 136-180. Urban loops.**

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

<u>Loop</u>	<u>Description</u>	<u>Affected Counties</u>
8 <u>Asheville Western</u> 9 <u>Loop</u>	10 <u>Multilane facility on new</u> 11 <u>location from I-26 west of</u> 12 <u>Asheville to US-19/23</u> 13 <u>north of Asheville for the</u> 14 <u>purpose of connecting these</u> 15 <u>roads. The funds may be</u> 16 <u>used to improve existing</u> 17 <u>corridors.</u>	<u>Buncombe</u>
18 <u>Charlotte Outer Loop</u> 19 <u>new location encircling</u> 20 <u>City of Charlotte</u>	21 <u>Multilane facility on</u>	<u>Mecklenburg</u>
22 <u>Durham Northern Loop</u> 23 <u>location from I-85 west of</u> 24 <u>Durham to US-70 east of</u> 25 <u>Durham</u>	26 <u>Multilane facility on new</u> 27 <u>location from I-85 west of</u> 28 <u>Durham to US-70 east of</u> 29 <u>Durham</u>	<u>Durham, Orange</u>
30 <u>Greensboro Loop</u> 31 <u>location encircling City</u> 32 <u>of Greensboro</u>	33 <u>Multilane facility on new</u> 34 <u>location encircling City</u> 35 <u>of Greensboro</u>	<u>Guilford</u>
36 <u>Raleigh Outer Loop</u> 37 <u>new location from US-1</u> 38 <u>southwest of Cary</u>	39 <u>Multilane facility on</u> 40 <u>new location from US-1</u> 41 <u>southwest of Cary</u> 42 <u>northerly to US-64 in</u> 43 <u>eastern Wake County</u>	<u>Wake</u>
44 <u>Wilmington Bypass</u>	45 <u>Multilane facility on new</u> 46 <u>location from US-17</u> 47 <u>northeast of Wilmington</u> 48 <u>to US-17 southwest</u> 49 <u>of Wilmington</u>	<u>New Hanover</u>
50 <u>Winston-Salem</u> 51 <u>Northbelt</u>	52 <u>Multilane facility on</u> 53 <u>new location from I-40 west</u> 54 <u>of Winston-Salem northerly</u> 55 <u>to I-40 in eastern Forsyth</u>	<u>Forsyth</u>

County

"§ 136-181. Supplement for city streets.

Funds allocated to supplement the appropriations for city streets made under G.S. 136-41.1 shall be distributed to cities as provided in that statute.

"§ 136-182. Supplement for secondary road construction.

Funds are allocated from the Trust Fund to increase allocations for secondary road construction made under G.S. 136-44.2A so that all State-maintained unpaved secondary roads with a traffic vehicular equivalent of at least 50 vehicles a day can be paved by the 1998-99 fiscal year. This supplement shall be discontinued when the Department of Transportation certifies that, with funds available from sources other than the Trust Fund, all State-maintained unpaved secondary roads, regardless of their traffic vehicular equivalent, can be paved during the following six years. If the supplement is discontinued before the Trust Fund terminates, the funds that would otherwise be allocated under this section shall be added to the allocation from the Trust Fund for projects of the Intrastate System.

"§ 136-183. Revenue available from retirement of bonds credited to Highway Fund.

Beginning with the 1994-95 fiscal year, the State Treasurer shall credit the following amounts of revenue to the Trust Fund:

<u>Fiscal Year</u>	<u>Yearly Amount</u>
<u>1994-95</u>	<u>\$9,600,000</u>
<u>1995-96</u>	<u>12,100,000</u>
<u>1996-97</u>	<u>32,300,000</u>
<u>1997-98 and each subsequent year</u>	
<u>until the Trust Fund ends</u>	<u>38,000,000.</u>

These amounts represent increased revenue resulting from the retirement of refunding bonds issued to repay highway construction bonds. In each fiscal year, the State Treasurer shall credit to the Trust Fund one-fourth of the amount set in the table for that year within 10 days of the end of each calendar quarter.

"§ 136-184. Reports by Department of Transportation.

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

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

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

5 (c) The Committee shall be funded by appropriations made to the Highway Trust
6 Fund and allocated to the Intrastate System projects. Members of the Committee
7 receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee
8 may contract for consultants or hire employees in accordance with G.S. 120-32.02. The
9 Legislative Services Commission, through the Legislative Administrative Officer, shall
10 assign professional staff to assist the Committee in its work. Upon the direction of the
11 Legislative Services Commission, the Supervisors of Clerks of the Senate and of the
12 House of Representatives shall assign clerical staff to the Committee. The expenses for
13 clerical employees shall be borne by the Committee."

14 Sec. 1.3. Article 2 of Chapter 136 of the General Statutes is amended by
15 adding a new section to read:

16 **"§ 136-17.2A. Distribution formula for funds expended on Intrastate System and**
17 **Transportation Improvement Program.**

18 (a) Funds expended for the Intrastate System projects listed in G.S. 136-179 and
19 both State and federal-aid funds expended under the Transportation Improvement
20 Program, other than funds expended on an urban loop project listed in G.S. 136-180,
21 shall be distributed throughout the State in accordance with this section. For purposes
22 of this distribution, the counties of the State are grouped into seven distribution regions
23 as follows:

- 24 (1) Distribution Region A consists of the following counties: Bertie,
25 Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax,
26 Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank,
27 Perquimans, Tyrrell, Washington, Wayne, and Wilson.
- 28 (2) Distribution Region B consists of the following counties: Beaufort,
29 Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New
30 Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
- 31 (3) Distribution Region C consists of the following counties: Bladen,
32 Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person,
33 Robeson, Vance, Wake, and Warren.
- 34 (4) Distribution Region D consists of the following counties: Alamance,
35 Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham,
36 Rowan, and Stokes.
- 37 (5) Distribution Region E consists of the following counties: Anson,
38 Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore,
39 Randolph, Richmond, Scotland, Stanly, and Union.
- 40 (6) Distribution Region F consists of the following counties: Alexander,
41 Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston,
42 Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
- 43 (7) Distribution Region G consists of the following counties: Buncombe,
44 Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson,

1 Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain,
2 Transylvania, and Yancey.

3 (b) Until ninety percent (90%) of the mileage of the Intrastate System projects
4 listed in G.S. 136-179 is completed, the Secretary of Transportation shall, on or before
5 October 1 of each year, calculate the estimated amount of funds subject to this section
6 that will be available for the next seven program years beginning that October 1. The
7 Secretary shall then calculate a tentative percentage share for each distribution region by
8 multiplying the total estimated amount by a factor that is based:

- 9 (1) Twenty-five percent (25%) on the miles to complete the Intrastate
10 System within the distribution region as compared to miles to
11 complete the total Intrastate System;
- 12 (2) Twenty-five percent (25%) on the vehicle miles travelled (VMT)
13 within the distribution region as compared to the total VMT within the
14 State;
- 15 (3) Twenty-five percent (25%) on the population of the distribution region
16 compared to the total population of the State; and
- 17 (4) Twenty-five percent (25%) on the fraction one-seventh, which
18 provides an equal share based on the number of distribution regions.

19 (c) When ninety percent (90%) of the mileage of the Intrastate System projects
20 listed in G.S. 136-179 is completed, the Secretary of Transportation shall, on or before
21 October 1 of each year, calculate the estimated amount of funds subject to this section
22 that will be available for the next seven program years beginning that October 1. The
23 Secretary shall then calculate a tentative percentage share for each distribution region by
24 multiplying the total estimated amount by a factor that is based:

- 25 (1) Thirty-three and one-third percent (33.3%) on the VMT within the
26 distribution region as compared to the total VMT for the State;
- 27 (2) Thirty-three and one-third percent (33.3%) on the population of the
28 distribution region compared to the total population of the State; and
- 29 (3) Thirty-three and one-third percent (33.3%) on the fraction one-
30 seventh, which provides an equal share based on the number of
31 distribution regions.

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

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

41 (f) In developing the schedules of improvements to be funded from the Trust
42 Fund and of improvements to be made under the Transportation Improvement Program,
43 the Board of Transportation shall consider the highway needs of every county in a
44 distribution region and shall make every reasonable effort to schedule the construction

1 of highway improvements in a manner that addresses the needs of every county in the
2 region in an equitable and timely manner."

3 Sec. 1.4. G.S. 136-41.1(a) reads as rewritten:

4 "(a) There is ~~hereby~~ annually appropriated out of the State Highway Fund a sum
5 equal to the net amount after refunds that was produced during the fiscal year by a one
6 and three-fourths cents (1 3/4¢) tax on each gallon of motor fuel as taxed by G.S. 105-
7 434 and 105-435, to be allocated in cash on or before October 1 of each year to the
8 cities and towns of the State in accordance with ~~the following formula:~~ this section. In
9 addition, as provided in G.S. 136-176(b)(3), revenue is allocated and appropriated from
10 the Highway Trust Fund to the cities and towns of this State to be used for the same
11 purposes and distributed in the same manner as the revenue appropriated to them under
12 this section from the Highway Fund. Like the appropriation from the Highway Fund,
13 the appropriation from the Highway Trust Fund shall be based on revenue collected
14 during the fiscal year preceding the date the distribution is made.

15 Seventy-five percent (75%) of ~~said funds~~ the funds appropriated for cities and towns
16 shall be distributed among the several eligible municipalities of the State in the
17 percentage proportion that the population of each eligible municipality bears to the total
18 population of all eligible municipalities according to the most recent annual estimates of
19 population as certified to the Secretary of Revenue by the State Budget Officer. This
20 annual estimation of population shall include increases in the population within the
21 municipalities caused by annexations accomplished through July 1 of the calendar year
22 in which these funds are distributed. Twenty-five percent (25%) of said fund shall be
23 distributed among the several eligible municipalities of the State in the percentage
24 proportion that the mileage of public streets in each eligible municipality which does
25 not form a part of the State highway system bears to the total mileage of the public
26 streets in all eligible municipalities which do not constitute a part of the State highway
27 system.

28 It shall be the duty of the mayor of each municipality to report to the Department of
29 Transportation such information as it may request for its guidance in determining the
30 eligibility of each municipality to receive funds ~~by virtue of G.S. 136-41.1 and 136-41.2~~
31 under this section and in determining the amount of allocation to which each is entitled.
32 Upon failure of any municipality to make such report within the time prescribed by the
33 Department of Transportation, the Department of Transportation may disregard such
34 defaulting unit in making said allotment.

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

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

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

21 Sec. 1.5. G.S. 136-44.2A reads as rewritten:

22 "**§ 136-44.2A. Secondary road construction.**

23 There shall be annually allocated out of the State Highway Fund to the Department
24 of Transportation for secondary road construction programs developed pursuant to G.S.
25 136-44.7 and 136-44.8, a sum equal to that allocation made from the Highway Fund
26 under G.S. 136-41.1(a). Such secondary roads allocation shall be made in accordance
27 with the provisions of G.S. 136-44.5. In addition, as provided in G.S. 136-176(b)(4),
28 revenue is annually allocated from the Highway Trust Fund for secondary road
29 construction. Of the funds allocated from the Highway Fund and the Highway Trust
30 Fund, the sum of sixty-eight million six hundred seventy thousand dollars (\$68,670,000)
31 shall be allocated among the counties in accordance with G.S. 136-44.5(b). All funds
32 for secondary road construction in excess of that amount shall be allocated among the
33 counties in accordance with G.S. 136-44.5(c)."

34 Sec. 1.6. G.S. 136-44.5 reads as rewritten:

35 "**§ 136-44.5. Secondary roads; mileage study; allocation of funds.**

36 (a) Before July 1, in each calendar year, the Department of Transportation shall
37 make a study of all state-maintained unpaved roads in the State. The study shall
38 determine the number of miles of unpaved state-maintained roads in each county, ~~and~~
39 the total number of miles of unpaved state-maintained roads in the State. State, the
40 number of miles of unpaved state-maintained roads in each county that have a traffic
41 vehicular equivalent of at least 50 vehicles a day, and the total number of miles of
42 unpaved state-maintained roads in the State that have a traffic vehicular equivalent of at
43 least 50 vehicles a day. Except for federal-aid programs, the Department shall allocate

1 all secondary road construction funds on the basis of a formula using the study figures.
2 ~~The allocation shall be~~

3 (b) The first sixty-eight million six hundred seventy thousand dollars
4 (\$68,670,000) shall be allocated as follows: Each county shall receive a percentage of
5 the total funds available for totally state-funded secondary road construction, these
6 funds, the percentage to be determined as a factor of the number of miles of unpaved
7 state-maintained secondary roads in the county divided by the total number of miles of
8 unpaved state-maintained secondary roads in the State.

9 (c) Funds allocated for secondary road construction in excess of sixty-eight
10 million six hundred seventy thousand dollars (\$68,670,000) shall be allocated to each
11 county based on the percentage proportion that the number of miles in the county of
12 state-maintained unpaved secondary roads with a traffic vehicular equivalent of at least
13 50 vehicles a day bears to the total number of miles in the State of state-maintained
14 unpaved secondary roads with a traffic vehicular equivalent of at least 50 vehicles a
15 day.

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

19 Sec. 1.7. G.S. 136-44.7 reads as rewritten:

20 "**§ 136-44.7. Secondary roads; annual work program.**

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

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

38 Sec. 1.8. G.S. 143B-350(f)(4) reads as rewritten:

39 "(4) To approve a schedule of all major transportation improvement projects and
40 their anticipated cost for a period of seven years into the future ~~which shall be published~~
41 ~~in a single document along with a report of the progress accomplished in the past year~~
42 ~~and the anticipated funding sources for these projects; future.~~ This schedule is
43 designated the Transportation Improvement Program; it must be published and copies
44 must be available for distribution. The document that contains the Transportation

1 Improvement Program, or a separate document that is published at the same time as the
2 Transportation Improvement Program, must include the anticipated funding sources for
3 the improvement projects included in the Program, a list of any changes made from the
4 previous year's Program, and the reasons for the changes:".

5 Sec. 1.9. The Department of Transportation shall determine on which
6 highways and bridges it is economically feasible to collect tolls and shall report its
7 findings to the General Assembly. If the Department finds it desirable to establish toll
8 roads, the Department shall include in its report any legislation needed to establish toll
9 roads and to implement the collection of tolls, including the creation of a North Carolina
10 Toll Roads Authority.

11 Sec. 1.10. G.S. 105-445 reads as rewritten:

12 **"§ 105-445. Application of proceeds of gasoline tax. Except as provided in G.S. 105-**
13 **446.2 and 136-41.1, the fund derived from the tax herein levied shall be**
14 **for the exclusive uses of the purposes set out in this Article, and**
15 **disbursed on vouchers drawn by the Board of Transportation in**
16 **accordance with the acts of the General Assembly dealing with the**
17 **subject matter herein referred to. Seventy-five percent (75%) of the**
18 **revenue collected under this Article shall be credited to the Highway**
19 **Fund and the remaining twenty-five percent (25%) shall be credited to**
20 **the Highway Trust Fund. A proportionate share of a refund allowed**
21 **under this Article shall be charged to the Highway Fund and the**
22 **Highway Trust Fund so that seventy-five percent (75%) of the amount of**
23 **a refund is charged to the Highway Fund and twenty-five percent (25%)**
24 **is charged to the Highway Trust Fund."**

25 Sec. 1.11. G.S. 105-446.2(a) reads as rewritten:

26 "(a) The North Carolina Wildlife Resources Commission shall receive one eighth
27 of one percent (1/8 of 1%) of the net proceeds of the taxes on motor fuels levied under
28 G.S. 105-434 and deposited in the Highway Fund. This percentage amount the same
29 shall be paid in accordance with the accounting periods as set forth under G.S. 105-
30 440(a). As used in this section 'net proceeds' shall mean the entire tax collected less one
31 cent (1¢) per gallon nonrebatale tax required to be segregated by Chapter 1250 of the
32 Session Laws of 1949, as amended by Chapter 46 of the Session Laws of 1965. means
33 the amount of tax deposited in the Highway Fund less the amount of any refunds
34 charged to the Highway Fund."

35 Sec. 1.12. G.S. 105-449.16 reads as rewritten:

36 **"§ 105-449.16. Levy of tax; purposes; special provisions for certain nonanhydrous**
37 **ethanol.—tax, application of tax proceeds, and exemption for**
38 **nonanhydrous ethanol.**

39 "(a) A tax at the rate established pursuant to G.S. 105-434 is hereby imposed upon
40 all fuel sold or delivered by any supplier to any licensed user-seller, or used by any such
41 supplier in any motor vehicle owned, leased or operated by him, or delivered by such
42 supplier directly into the fuel supply tank of a motor vehicle, or imported by a user-
43 seller into, or acquired tax free by a user-seller or user in this State for resale or use for
44 the propulsion of a motor vehicle. fuel:

- 1 (1) Sold or delivered by a supplier to a licensed user-seller;
- 2 (2) Used by a supplier in a motor vehicle owned, leased, or operated by
3 the supplier;
- 4 (3) Delivered by a supplier directly into the fuel supply tank of a motor
5 vehicle;
- 6 (4) Imported by a user-seller into this State, by a means other than
7 carrying the fuel in a fuel supply tank of a motor vehicle, for resale or
8 to propel a motor vehicle; or
- 9 (5) Acquired tax free by a user-seller or user in this State for resale or to
10 propel a motor vehicle.

11 A supplier who consigns fuel to a reseller may elect to report and pay the tax due on the
12 fuel when the reseller sells or dispenses the fuel instead of when the supplier delivers
13 the fuel to the reseller. ~~For the purpose of this section, "imported" shall not include fuels~~
14 ~~brought into this State in the usual tank or receptacle connected with the engine of a~~
15 ~~motor vehicle.~~

16 The primary purposes of this levy and this Article are to provide a more efficient and
17 effective method of collecting the tax now imposed and collected pursuant to G.S. 105-
18 435, by providing for the collection of ~~said~~ the tax from the supplier instead of the user.
19 ~~The tax herein provided for is levied for the same purposes as the tax provided for in~~
20 ~~G.S. 105-435. It is not intended that the tax collected pursuant to this Article shall be in~~
21 ~~addition to that provided in G.S. 105-435, but the payment of the tax as provided by this~~
22 ~~Article shall be deemed conclusively to constitute a compliance with the provisions of~~
23 ~~G.S. 105-435 the provisions of section 13 of Chapter 1250 of the Session Laws of 1949,~~
24 ~~relating to G.S. 105-435, in that one cent (1¢) of the amount of tax levied on each~~
25 ~~gallon shall be applied exclusively to the payment of the principal of and the interest on~~
26 ~~the two hundred million dollars (\$200,000,000) State of North Carolina Secondary~~
27 ~~Road Bonds therein provided for and as further provided in said Chapter 1250 of the~~
28 ~~Session Laws of 1949. The tax levied by this Article is in lieu of rather than in addition~~
29 ~~to the tax levied by G.S. 105-435; payment of the tax levied by this Article constitutes~~
30 compliance with G.S. 105-435.

31 (b) ~~Repealed by Session Laws 1985, c. 261, s. 1, effective July 1, 1985. The~~
32 ~~same percentage amounts of revenue collected under this Article shall be credited to the~~
33 ~~Highway Fund and to the Highway Trust Fund as are credited to those Funds under G.S.~~
34 ~~105-445, and the same percentage amounts of refunds allowed under this Article shall~~
35 ~~be charged to the Highway Fund and to the Highway Trust Fund as are charged to those~~
36 ~~Funds under that statute.~~

37 (c) Nonanhydrous ethanol is exempt from the tax described in this section if that
38 ethanol is not for sale or distribution."

39 Sec. 1.13. G.S. 105-449.43 reads as rewritten:

40 "**§ 105-449.43. Taxes and fees to be paid to Highway Fund. Application of tax**
41 **proceeds.**

42 ~~All taxes and fees collected under this Article shall be paid to the State Highway Fund.~~
43 The same percentage amounts of tax revenue collected under this Article shall be
44 credited to the Highway Fund and to the Highway Trust Fund as are credited to those

1 Funds under G.S. 105-445, and the same percentage amounts of refunds or credits
 2 allowed under this Article shall be charged to the Highway Fund and the Highway Trust
 3 Fund as are charged to those Funds under that statute."

4 Sec. 1.14. Notwithstanding G.S. 136-176(b), the sum of \$11,000,000 for the
 5 1989-90 fiscal year is appropriated from the Highway Trust Fund to the Department of
 6 Transportation for administrative expenses of the Trust Fund. This appropriation is in
 7 lieu of the allocation under G.S. 136-176(b).

8 Sec. 1.15. Article 2 of Chapter 136 of the General Statutes is amended by
 9 adding a new section to read:

10 **"§ 136-44.8. Contract requirements relating to construction materials.**

11 (a) The Department of Transportation shall require that every contract for
 12 construction or repair necessary to carry out the provisions of this Chapter shall contain
 13 a provision requiring that steel and cement used or supplied in the performance of the
 14 contract or any subcontract thereunder are produced in the United States.

15 (b) Subsection (a) shall not apply whenever the Department of Transportation
 16 determines in writing that this provision required by subsection (a) cannot be complied
 17 with because such products are not produced in the United States in sufficient quantities
 18 to meet the requirements of such contracts or cannot be complied with because the cost
 19 of such products produced in the United States unreasonably exceeds other such
 20 products.

21 (c) The Department of Transportation shall not authorize, provide for, or make
 22 payments to any person pursuant to any contract containing the provision required by
 23 subsection (a) unless such person has fully complied with such provision."

24 **PART II.**

25 **INCREASE CERTIFICATE OF TITLE FEE/ ALTERNATE**
 26 **TRANSPORTATION FUNDING.**

27 Sec. 2.1. G.S. 20-85 reads as rewritten:

28 **"§ 20-85. Schedule of fees.**

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

- 32 (1) Each application for certificate of
 33 title ~~\$5.00~~ \$25.00
 34 (2) Each application for duplicate
 35 or corrected certificate of title 7.00
 36 (3) Each application of reposessor for
 37 certificate of title 5.00
 38 (4) Each transfer of registration 4.00
 39 (5) Each set of replacement registration
 40 plates 9.00
 41 (6) Each application for duplicate registration
 42 certificate 3.00
 43 (7) Each application for recording supplementary
 44 lien 3.00

1 (8) Each application for removing a lien from a
2 certificate of title 4.00.

3 (b) Eighty percent (80%) of the revenue collected under subdivision (a)(1) of this
4 section shall be credited to the Highway Trust Fund and the remaining twenty percent
5 (20%) shall be credited to the Highway Fund."

6 Sec. 2.2. G.S. 136-44.20 is amended by adding a new subsection to read:

7 "(d) Of the amount appropriated to the Department each year for State
8 construction under the Transportation Improvement Program, the Department may use
9 up to five million dollars (\$5,000,000) to develop economical transit alternatives to
10 highway construction. These alternatives may include high occupancy vehicle lanes
11 and rail routes."

12 PART III.

13 SALES TAX CHANGES.

14 Sec. 3.1. G.S. 105-164.3 reads as rewritten:

15 "**§ 105-164.3. Definitions. ~~The words, terms and phrases when used in this Article~~**
16 **~~shall have the meanings ascribed to them in this section following~~**
17 **definitions apply in this Article, except when the context clearly indicates**
18 **a different meaning:**

19 (1) 'Business' shall include any activity engaged in by any person or
20 caused to be engaged in by him with the object of gain, profit, benefit
21 or advantage, either direct or indirect. The term 'business' shall not be
22 construed in this Article to include occasional and isolated sales or
23 transactions by a person who does not hold himself out as engaged in
24 business.

25 (2) ~~" Secretary" shall mean the Secretary of Revenue of the State of North~~
26 ~~Carolina.~~ 'Commercial motor vehicle' means a motor vehicle that is:

27 a. A passenger motor vehicle and is to be used only as an
28 ambulance or fire or rescue vehicle, or a for-hire passenger
29 vehicle, as defined in G.S. 20-4.01;

30 b. A self-propelled property hauling vehicle licensable under G.S.
31 20-88 whose empty weight and heaviest load to be transported
32 is at least 5,000 pounds; or

33 c. A semitrailer, as defined in G.S. 20-4.01, and is not a house
34 trailer.

35 (3) 'Consumer' shall mean and include every person storing, using or
36 otherwise consuming in this State tangible personal property
37 purchased or received from a retailer either within or without this
38 State.

39 (4) 'Cost price' means the actual cost of articles of tangible personal
40 property without any deductions therefrom on account of the cost of
41 materials used, cash discounts, labor or service costs, transportation
42 charges or any expenses whatsoever.

43 (5) 'Engaged in business' shall mean maintaining, occupying or using
44 permanently or temporarily, directly or indirectly, or through a

1 subsidiary or agent, by whatever name called, any office, place of
 2 distribution, sales or sample room or place, warehouse or storage
 3 place, or other place of business, for the selling or delivering of
 4 tangible personal property for storage, use or consumption in this
 5 State, or permanently or temporarily, directly or through a subsidiary,
 6 having any representative, agent, salesman, canvasser or solicitor
 7 operating in this State in such selling or delivering, and the fact that
 8 any corporate retailer, agent or subsidiary engaged in business in this
 9 State may not be legally domesticated or qualified to do business in
 10 this State shall be immaterial. It shall also mean the maintaining in this
 11 State, either permanently or temporarily, directly or through a
 12 subsidiary, tangible personal property for the purpose of lease or
 13 rental. It shall also mean making a mail order sale, as defined in
 14 subdivision (8a) of this section, if one of the conditions listed in G.S.
 15 105-164.8(b) is met.

16 (6) 'Gross sales' means the sum total of all retail sales of tangible personal
 17 property as defined herein, whether for cash or credit without
 18 allowance for cash discount and without any deduction on account of
 19 the cost of the property sold, the cost of materials used, labor or
 20 service costs, interest paid or any other expenses whatsoever and
 21 without any deductions of any kind or character except as provided in
 22 this Article.

23 (7) 'In this (the) State' means within the exterior limits of the State of
 24 North Carolina and includes all territory within such limits owned by
 25 or ceded to the United States of America.

26 ~~(8)~~(7a) 'Lease or rental' means the leasing or renting of tangible personal
 27 property and the possession or use thereof by the lessee or ~~rentee~~
 28 renter for a consideration without transfer of the title of such property.

29 ~~(8a)~~(8) 'Mail order sale' means a sale of tangible personal property,
 30 ordered by mail, telephone, computer link, or other similar method, to
 31 a purchaser who is in this State at the time the order is remitted, from a
 32 retailer who receives the order in another state and transports the
 33 property or causes it to be transported to a person in this State. It is
 34 presumed that a resident of this State who remits an order was in this
 35 State at the time the order was remitted.

36 (8a) 'Manufactured home' means a structure that is designed to be used as a
 37 dwelling and:

38 a. Is built on a permanent chassis;

39 b. Is transportable in one or more sections;

40 c. When transported, is at least eight feet wide or forty feet long;

41 and

42 d. When erected on a site, has at least 320 square feet.

43 (8b) 'Motor vehicle' means any vehicle which is self-propelled and
 44 designed primarily for use upon the highways, any vehicle which is

1 propelled by electric power obtained from trolley wires but not
2 operated upon rails, and any vehicle designed to run upon the
3 highways which is propelled by a self-propelled vehicle, but shall not
4 include any implement of husbandry, farm tractor, road construction or
5 maintenance machinery or equipment, special mobile equipment as
6 defined in G.S. 20-4.01, ~~or any vehicle designed primarily for use in~~
7 ~~work off the highway.~~ highway, or a manufactured home.

8 (9) 'Net taxable sales' shall mean and include the gross retail sales of the
9 business of the retailer taxed under this Article after deducting
10 ~~therefrom~~ exempt sales and nontaxable sales.

11 (10) 'Nonresident retail or wholesale merchant' means a person who does
12 not have a place of business in this State, is engaged in the business of
13 acquiring, by purchase, consignment, or otherwise, tangible personal
14 property and selling the property outside the State, and is registered for
15 sales and use tax purposes in a taxing jurisdiction outside the State.

16 (11) 'Person' includes any individual, firm, copartnership, joint venture,
17 association, corporation, estate, trust, business trust, receiver, syndicate
18 or other group, or combination acting as a unit, body politic, or
19 political subdivision, whether public or private or quasi-public and the
20 plural as well as the singular number.

21 (12) 'Purchase' means acquired for a consideration whether

22 a. ~~Such~~ The acquisition was effected by a transfer of title or
23 possession, or both, or a license to use or consume;

24 b. ~~Such transfer shall have been~~ The transfer was absolute or
25 conditional ~~and by whatever means it shall have been~~ regardless
26 of the means by which it was effected; and

27 c. ~~Such~~ The consideration ~~be is~~ a price or rental in money or by
28 way of exchange or barter.

29 It shall also include the procuring of a retailer to erect, install or apply
30 tangible personal property for use in this State.

31 (13) 'Retail' shall mean the sale of any tangible personal property in any
32 quantity or quantities for any use or purpose on the part of the
33 purchaser other than for resale.

34 (14) 'Retailer' means and includes every person engaged in the business of
35 making sales of tangible personal property at retail, either within or
36 without this State, or peddling the same or soliciting or taking orders
37 for sales, whether for immediate or future delivery, for storage, use or
38 consumption in this State and every manufacturer, producer or
39 contractor engaged in business in this State and selling, delivering,
40 erecting, installing or applying tangible personal property for use in
41 this State notwithstanding that said property may be permanently
42 affixed to a building or realty or other tangible personal property.
43 'Retailer' also means a person who makes a mail order sale, as defined
44 in ~~subdivision (8a)~~ of this section, if one of the conditions listed in

1 G.S. 105-164.8(b) is met. Provided, however, that when in the opinion
2 of the Secretary it is necessary for the efficient administration of this
3 Article to regard any salesmen, solicitors, representatives, consignees,
4 peddlers, truckers or canvassers as agents of the dealers, distributors,
5 consignors, supervisors, employers or persons under whom they
6 operate or from whom they obtain the tangible personal property sold
7 by them regardless of whether they are making sales on their own
8 behalf or on behalf of such dealers, distributors, consignors,
9 supervisors, employers or persons, the Secretary may so regard them
10 and may regard the dealers, distributors, consignors, supervisors,
11 employers or persons as 'retailers' for the purpose of this Article.

12 (15) 'Sale' or 'selling' shall mean any transfer of title or possession, or both,
13 exchange, barter, lease, license to use or consume, or rental of tangible
14 personal property, conditional or otherwise, in any manner or by any
15 means whatsoever, however effected and by whatever name called, for
16 a consideration paid or to be paid, and includes the fabrication of
17 tangible personal property for consumers by persons engaged in
18 business who furnish either directly or indirectly the materials used in
19 the fabrication work, and the furnishing, preparing, or serving for a
20 consideration of any tangible personal property consumed on the
21 premises of the person furnishing, preparing, or serving such tangible
22 personal property or consumed at the place at which such property is
23 prepared, served or sold. A transaction whereby the possession of the
24 property is transferred but the seller retains title or security for the
25 payment of the price shall be deemed a sale.

26 (16) Except as provided in paragraph f., 'sales price' means the total
27 amount for which tangible personal property is sold including charges
28 for any services that go into the fabrication, manufacture or delivery of
29 such tangible personal property and that are a part of the sale valued in
30 money whether paid in money or otherwise and includes any amount
31 for which credit is given to the purchaser by the seller without any
32 deduction therefrom on account of the cost of the property sold, the
33 cost of materials used, labor or service costs, interest charged, losses or
34 any other expenses whatsoever. Provided, however, that where a
35 manufacturer, producer or contractor erects, installs or affixes tangible
36 personal property upon real property pursuant to a construction or
37 performance-type contract with or for the benefit of the owner of such
38 real property, the sales price shall be the cost of such property to the
39 manufacturer, producer or contractor performing the contract.
40 Provided, further:

41 a. The cost for labor or services rendered in erecting, installing or
42 applying property sold when separately charged shall not be
43 included as a part of the 'sales price';

- 1 b. Finance charges, service charges or interest from credit
2 extended under conditional sales contracts or other conditional
3 contracts providing for deferred payments of the purchase price
4 shall not be considered a part of the 'sales price' when
5 separately charged;
- 6 c. 'Sales price' shall not include the amount of any tax imposed by
7 the United States upon or with respect to retail sales whether
8 imposed upon the retailer or consumer except that any
9 manufacturers' or importers' excise tax shall be included in the
10 term.
- 11 d. 'Sales price' shall not include any amounts charged as deposits
12 on beverage containers which are returnable to vendors for
13 reuse and which amounts are refundable or creditable to
14 vendees, whether or not said deposits are separately charged.
- 15 e. 'Sales price' shall not include amounts charged as deposits on
16 automotive, industrial, marine and farm replacement parts
17 which are returnable to vendors for rebuilding or
18 remanufacturing and which amounts are refundable or
19 creditable to vendees, whether or not such deposits are
20 separately charged. This subsection shall not be construed to
21 include tires and batteries.
- 22 f. The sales price of tangible personal property sold through a
23 coin-operated vending machine, other than closed-container soft
24 drinks subject to excise tax under Article 2B of this Chapter or
25 tobacco products, is considered to be fifty percent (50%) of the
26 total amount for which the property is sold in the vending
27 machine.
- 28 (16a) 'Secretary' means the Secretary of the North Carolina Department of
29 Revenue.
- 30 (17) 'Storage' means and includes any keeping or retention in this State for
31 any purpose by the purchaser thereof, except sale in the regular course
32 of business, of tangible personal property purchased from a retailer.
- 33 (18) 'Use' means and includes the exercise of any right or power or
34 dominion whatsoever over tangible personal property by a purchaser
35 thereof and includes, but is not limited to, any withdrawal from
36 storage, installation, affixation to real or personal property, exhaustion
37 or consumption of tangible personal property by the owner or
38 purchaser thereof, but shall not include the sale of tangible personal
39 property in the regular course of business.
- 40 (19) 'Storage' and 'Use'; Exclusion. – 'Storage' and 'use' do not include the
41 keeping, retaining or exercising of any right or power over tangible
42 personal property by the purchaser thereof for the original purpose of
43 subsequently transporting it outside the State for use by said purchaser
44 thereafter solely outside the State and which purpose is consummated,

1 or for the purpose of being processed, fabricated or manufactured into,
2 attached to or incorporated into, other tangible personal property to be
3 transported outside the State and thereafter used by the purchaser
4 thereof solely outside the State.

5 (20) 'Tangible personal property' means and includes personal property
6 which may be seen, weighed, measured, felt or touched or is in any
7 other manner perceptible to the senses. The term 'tangible personal
8 property' shall not include stocks, bonds, notes, insurance or other
9 obligations or securities, nor shall it include water delivered by or
10 through main lines or pipes either for commercial or domestic use or
11 consumption. The term includes all 'canned' or prewritten computer
12 programs, either in the form of written procedures or in the form of
13 storage media on which or in which the program is recorded, held, or
14 existing for general or repeated sale, lease, or license to use or
15 consume. The term does not include the design, development, writing,
16 translation, fabrication, lease, license to use or consume, or transfer for
17 a consideration of title or possession of a custom computer program,
18 other than a basic operational program, either in the form of written
19 procedures or in the form of storage media on which or in which the
20 program is recorded, or any required documentation or manuals
21 designed to facilitate the use of the custom computer program.

22 As used in this subdivision:

- 23 a. 'Basic operational program' or 'control program' means a
24 computer program that is fundamental and necessary to the
25 functioning of a computer. A basic operational program is that
26 part of an operating system, including supervisors, monitors,
27 executives, and control or master programs, which consists of
28 the control program elements of that system. A control or
29 master program, as opposed to a processing program, controls
30 the operation of a computer by managing the allocation of all
31 system resources, including the central processing unit, main
32 storage, input/output devices, and processing programs. A
33 processing program is used to develop and implement the
34 specific applications the computer is to perform.
- 35 b. 'Computer program' means the complete plan for the solution
36 of a problem, such as the complete sequence of automatic data-
37 processing equipment instructions necessary to solve a problem,
38 and includes both systems and application programs and
39 subdivisions, such as assemblers, compilers, routines,
40 generators, and utility programs.
- 41 c. 'Custom computer program' means a computer program
42 prepared to the special order of the customer. Custom computer
43 programs include one of the following elements:

- 1 1. Preparation or selection of the programs for the
2 customer's use requires an analysis of the customer's
3 requirements by the vendor; or
4 2. The program requires adaptation by the vendor to be
5 used in a particular make and model of computer
6 utilizing a specified output device.
7 d. 'Storage media' means punched cards, tapes, disks, diskettes, or
8 drums.

9 (21) 'Taxpayer' means any person liable for taxes under this Article.

10 (22) 'Use tax' means and includes the tax imposed by Part 3 in Division II
11 of this Article.

12 (23) 'Wholesale merchant' shall mean every person who engages in the
13 business of buying or manufacturing any tangible personal property
14 and selling same to registered retailers, wholesalers and nonresident
15 retail or wholesale merchants for resale. It shall also include persons
16 making sales of tangible personal property which are defined herein as
17 wholesale sales. For the purposes of this Article any person, firm,
18 corporation, estate or trust engaged in the business of manufacturing,
19 producing, processing or blending any articles of commerce and
20 maintaining a store or stores, warehouse or warehouses, or any other
21 place or places, separate and apart from the place of manufacture or
22 production, for the sale or distribution of its products (other than
23 bakery products) to other manufacturers or producers, wholesale or
24 retail merchants, for the purpose of resale shall be deemed a
25 'wholesale merchant.'

26 (24) 'Wholesale sale' shall mean a sale of tangible personal property by a
27 wholesale merchant to a manufacturer, or registered jobber or dealer,
28 or registered wholesale or retail merchant, for the purpose of resale but
29 does not include a sale to users or consumers not for resale.

30 (25) 'Utility' means an electric power company, a gas company, or a
31 telephone company that is subject to a privilege tax based on gross
32 receipts under G.S. 105-116 or 105-120, a business entity that provides
33 local, toll or private telecommunications service as defined by G.S.
34 105-120(a) or a municipality that sells electric power, other than a
35 municipality whose only wholesale supplier of electric power is a
36 federal agency and who is required by a contract with that federal
37 agency to make payments in lieu of taxes."

38 Sec. 3.2. G.S. 105-164.4 reads as rewritten:

39 "**§ 105-164.4. Imposition of tax; retailer. Tax imposed on retailers.**

40 ~~There is hereby levied and imposed, in addition to all other taxes of every kind now~~
41 ~~imposed by law, a privilege or license tax upon every person who engages in the~~
42 ~~business of selling tangible personal property at retail, renting or furnishing tangible~~
43 ~~personal property or the renting and furnishing of rooms, lodgings and accommodations~~

1 to transients, in this State, the same to be collected and the amount to be determined by
2 the application of the following rates against gross sales and rentals, to wit:

- 3 (1) ~~At the rate of three percent (3%) of the sales price of each item or~~
4 ~~article of tangible property when sold at retail in this State, the tax to~~
5 ~~be computed on total net taxable sales as defined herein but for the~~
6 ~~purpose of computing the amount due the State each and every taxable~~
7 ~~retail sale, or retail sales upon which the tax has been collected, or the~~
8 ~~amount of tax actually collected, whichever be greater and whether or~~
9 ~~not erroneously collected, shall be included in the computation of tax~~
10 ~~due the State. Provided, however, that in the case of the sale of any~~
11 ~~aircraft, railway locomotive, railway car or the sale of any motor~~
12 ~~vehicle or boat, the tax shall be only at the rate of two percent (2%) of~~
13 ~~the sales price, but at no time shall the maximum tax with respect to~~
14 ~~any one such aircraft, railway locomotive, railway car or motor vehicle~~
15 ~~or boat, including all accessories attached thereto at the time of~~
16 ~~delivery thereof to the purchaser, be in excess of three hundred dollars~~
17 ~~(\$300.00).~~

18 The separate sale of a new motor vehicle chassis and a new motor
19 vehicle body to be installed thereon, whether by the same retailer or by
20 different retailers shall be subject only to the tax herein prescribed with
21 respect to a single motor vehicle. No tax shall be imposed upon a body
22 mounted on the chassis of a motor vehicle which temporarily enters
23 the State for the purpose of having such body mounted thereon by the
24 manufacturer thereof.

25 Notwithstanding G.S. 105-164.3(16) and regardless whether the
26 seller is a retailer of motor vehicles, the sales price of a motor vehicle
27 is the gross sales price of the motor vehicle less any allowance given
28 for a motor vehicle taken in trade as part of the consideration for the
29 purchased motor vehicle.

30 The tax levied under this section applies to all retail sales of motor
31 vehicles regardless whether the seller is engaged in business as a
32 retailer of motor vehicles or whether a tax on the sale of the vehicle
33 has previously been paid under this Article. A purchaser of a motor
34 vehicle from a retailer shall pay the tax imposed under this Article to
35 the retailer, who is liable for collecting and remitting the tax to the
36 Secretary. A purchaser of a motor vehicle is liable for payment of the
37 tax imposed by this Article if the seller is not a retailer. The purchaser
38 shall pay the tax to the Commissioner of Motor Vehicles when
39 applying for a certificate of title for the vehicle. When property is
40 transferred by an individual to a partnership or corporation, and no
41 gain or loss arises as provided by Section 351 or Section 721 of the
42 Code, such transfer is not a sale for the purpose of this subdivision if
43 the transfer is incident to the organization of the partnership or
44 corporation.

1 ~~When applying for a certificate of title, a purchaser of a motor~~
2 ~~vehicle from a seller who is not a retailer shall certify in writing the~~
3 ~~sales price of the purchased motor vehicle. A purchaser who~~
4 ~~knowingly makes a false certification of the sales price is guilty of a~~
5 ~~misdemeanor.~~

6 ~~The Commissioner of Motor Vehicles may not issue a certificate of~~
7 ~~title for a motor vehicle sold by a seller who is not a retailer unless the~~
8 ~~tax imposed by this section is paid when the purchaser of the vehicle~~
9 ~~applies for a certificate of title. The Commissioner shall remit taxes~~
10 ~~collected by him under this subsection to the Secretary.~~

11 ~~Persons who lease or rent motor vehicles shall collect and remit the~~
12 ~~tax imposed by this Article on the separate retail sale of a motor~~
13 ~~vehicle in addition to the tax imposed on the proceeds from the lease~~
14 ~~or rental of the motor vehicle.~~

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

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

21 (1a) At the rate of two percent (2%) of the sales price of each manufactured
22 home sold at retail, including all accessories attached to the
23 manufactured home when it is delivered to the purchaser, not to
24 exceed three hundred dollars (\$300.00). Each section of a
25 manufactured home that is transported separately to the site where it is
26 to be erected is a separate article.

27 (1b) At the rate of two percent (2%) of the sales price of each aircraft, boat,
28 railway car, or locomotive sold at retail, including all accessories
29 attached to the item when it is delivered to the purchaser. If the item is
30 to be used principally for the production of income or in connection
31 with a business, the tax on the item may not exceed one thousand five
32 hundred dollars (\$1,500). For the purpose of this subdivision, an item
33 is to be used principally for the production of income or in connection
34 with a business if at least eighty-five percent (85%) of its use will be
35 for the production of income or in connection with a business. In
36 order to receive the benefit of the maximum tax of one thousand five
37 hundred dollars (\$1,500), the retailer must obtain from the purchaser
38 and furnish to the Secretary on a form provided by the Secretary an
39 affidavit signed by the purchaser and containing the following: (i) the
40 name and address of the purchaser; (ii) information identifying the
41 item sold; (iii) a statement that at least eighty-five percent (85%) of the
42 item's use will be for the production of income or in connection with a
43 business; and (iv) such other information as the Secretary may require.
44 This affidavit must be filed with the retailer's sales and use tax report

1 for the month in which the sale is made or within 90 days after the sale
2 is made, whichever is later.

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

4 (1c) At the rate of one percent (1%) of the sales price on the following
5 items:

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

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

31 (1d) At the rate of one percent (1%) of the sales price, subject to a
32 maximum tax of eighty dollars (\$80.00) per article, on the following
33 items:

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

1 The term 'machines and machinery' as used in this
2 subdivision is defined as follows:

3 The term shall include all vehicular implements,
4 designed and sold for any use defined in this subdivision,
5 which are operated, drawn or propelled by motor or animal
6 power, but shall not include vehicular implements which
7 are operated wholly by hand, and shall not include any
8 motor vehicles required to be registered under Chapter 20
9 of the General Statutes.

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

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

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

36 ~~i.~~c. Sales of central office equipment and switchboard and
37 private branch exchange equipment to telephone
38 companies regularly engaged in providing telephone
39 service to subscribers on a commercial basis, and sales to
40 these companies of prewritten computer programs used in
41 providing telephone service to their subscribers.

42 ~~j.~~d. Sales to commercial laundries or to pressing and dry
43 cleaning establishments of machinery used in the direct

- 1 performance of the laundering or the pressing and cleaning
 2 service and of parts and accessories thereto.
- 3 k.e. Sales to freezer locker plants of machinery used in the
 4 direct operation of said freezer locker plant and of parts
 5 and accessories thereto.
- 6 l.f. Sales of broadcasting equipment and parts and accessories
 7 thereto and towers to commercial radio and television
 8 companies which are under the regulation and supervision
 9 of the Federal Communications Commission.
- 10 m.g. Sales to farmers of bulk tobacco barns and racks and all
 11 parts and accessories thereto and similar apparatus used for
 12 the curing and drying of any farm produce.
- 13 n. ~~Repealed by Session Laws 1983, c. 805, s. 2, effective July~~
 14 ~~1, 1983.~~
- 15 o.h. Sales to farmers of grain, feed or soybean storage facilities
 16 and accessories thereto, whether or not dryers are attached,
 17 and all similar apparatus and accessories thereto for the
 18 storage of grain, feed or soybeans.
- 19 p. ~~Repealed by Session Laws 1983, c. 805, s. 2, effective July~~
 20 ~~1, 1983.~~
- 21 q.i. Sales of containers to farmers or producers for use in the
 22 planting, producing, harvesting, curing, marketing,
 23 packaging, sale, or transporting or delivery of their
 24 products when such containers do not go with and become
 25 part of the sale of their products at wholesale or retail.
- 26 (2) ~~At the rate of three percent (3%) of the gross proceeds derived from~~
 27 ~~the lease or rental of tangible personal property as defined herein,~~
 28 ~~where the lease or rental of such property is an established business, or~~
 29 ~~the same is incidental or germane to said business; except that~~
 30 ~~whenever a rate of less than three percent (3%) is applicable to a sale~~
 31 ~~of property which is leased or rented, the lower rate of tax shall be due~~
 32 ~~on such lease or rental proceeds. applicable percentage rate of the~~
 33 ~~gross receipts derived from the lease or rental of tangible personal~~
 34 ~~property by a person who is engaged in the business of leasing or~~
 35 ~~renting tangible personal property, or is a retailer and leases or rents~~
 36 ~~property of the type sold by the retailer. The applicable percentage~~
 37 ~~rate is the rate and the maximum tax, if any, that applies to a sale of~~
 38 ~~the property that is leased or rented. A person who leases or rents~~
 39 ~~property shall also collect the tax imposed by this section on the~~
 40 ~~separate retail sale of the property.~~
- 41 (3) Operators of hotels, motels, tourist homes, tourist camps, and similar
 42 type businesses and persons who rent private residences and cottages
 43 to transients are considered retailers under this Article. There is levied
 44 upon every such retailer a tax of three percent (3%) of the gross

1 receipts derived from the rental of any ~~room or~~ rooms, lodgings, or
2 accommodations furnished to transients for a consideration. This tax
3 does not apply to any private residence or cottage that is rented for less
4 than 15 days in a calendar year or to any room, lodging, or
5 accommodation supplied to the same person for a period of 90 or more
6 continuous days.

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

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

42 (4a) At the rate of three percent (3%) of the gross receipts derived by a
43 utility from sales of electricity, piped natural gas, or local

1 telecommunications service as defined by G.S. 105-120(a). A person
2 who operates a utility is considered a retailer under this Article.

3 (4b) A person who sells tangible personal property at a flea market, other
4 than his own household personal property, is considered a retailer
5 under this Article. A tax is levied on that person at the rate of three
6 percent (3%) of the sales price of each article sold by him at the flea
7 market. A person who leases or rents space at a flea market may not
8 lease or rent this space unless the retailer requesting to rent or lease the
9 space furnishes evidence that he has obtained the license required by
10 this Article. A person who leases or rents space at a flea market shall
11 keep records of retailers to whom he has leased or rented space at the
12 market. As used in this subdivision, the term 'flea market' means a
13 place where space is rented to a person for the purpose of selling
14 tangible personal property.

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

23 ~~(5)~~ (b) ~~The said tax levied in this section shall be collected from the retailer as~~
24 ~~defined herein and paid by him at the time and in the manner as hereinafter provided.~~
25 ~~Provided, however, that any person engaging or continuing in business as a retailer shall~~
26 ~~pay the tax required on the net taxable sales of such business at the rates specified when~~
27 ~~proper books are kept showing separately the gross proceeds of taxable and nontaxable~~
28 ~~sales of tangible personal property in such form as may be accurately and conveniently~~
29 ~~checked by the Secretary or his duly authorized agent. If such records are not kept~~
30 ~~separately the tax shall be paid as a retailer on the gross sales of business and the~~
31 ~~exemptions and exclusions provided by this Article shall not be allowed. (6) The tax so~~
32 ~~levied in this section is and shall be in addition to all other taxes whether levied in the~~
33 ~~form of excise, license or privilege or other taxes.~~

34 ~~(7)~~ (c) ~~Any person who shall engage or continue engages or continues in any~~
35 ~~business for which a privilege tax is imposed by this Article shall immediately after July~~
36 ~~1, 1979, apply for and obtain from the Secretary upon payment of the sum of five~~
37 ~~dollars (\$5.00) a license to engage in and conduct such business upon the condition that~~
38 ~~such the person shall pay the tax accruing to the State of North Carolina under the~~
39 ~~provisions of this Article and he under this Article; the person shall thereby be duly~~
40 ~~licensed and registered to engage in and conduct such business. Except as hereinafter~~
41 ~~provided, a license issued under this subsection shall be a continuing license until~~
42 ~~revoked for failure to comply with the provisions of this Article. However, any person~~
43 ~~who has heretofore applied for and obtained such the license, and such if the license was~~

1 in force and effect as of July 1, 1979, shall not be required to apply for and obtain a new
2 license.

3 Any person who ~~shall cease~~ ceases to be engaged in any business for which a
4 privilege tax is imposed by this Article, and who ~~shall remain~~ remains continuously out
5 of business for a period of five years shall apply for and obtain a new license from the
6 Secretary upon the payment of a tax of five dollars (\$5.00), and any license previously
7 issued under this section shall be ~~null, void and of no effect.~~ void. The burden of proof
8 after such period shall be upon the taxpayer to show that he did engage in such ~~activity~~
9 business within the period, and that no new license is required.

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

12 Sec. 3.3. G.S. 105-164.6 reads as rewritten:

13 **"§ 105-164.6. Imposition of tax.**

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

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

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

33 (1) At the applicable percentage rate of the cost price of each item or
34 article of tangible personal property that is stored, used, or consumed
35 in this State. The applicable percentage rate is the rate and the
36 maximum tax, if any, that applies to a sale of the property that is
37 stored, used, or consumed.

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

1 ~~due under this subdivision. applicable percentage rate of the monthly~~
2 ~~lease or rental price paid, contracted, or agreed to be paid by the lessee~~
3 ~~or renter to the owner of tangible personal property that is stored, used,~~
4 ~~or consumed in this State. The applicable percentage rate is the rate~~
5 ~~and the maximum tax, if any, that applies to a lease or rental of the~~
6 ~~property that is stored, used, or consumed.~~

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

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

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

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

1 ~~Persons who lease or rent motor vehicles shall collect and remit the tax~~
2 ~~imposed by this Article on the separate retail sale of a motor vehicle in addition to the~~
3 ~~tax imposed on the proceeds from the lease or rental of the motor vehicle.~~

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

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

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

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

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

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

19 All provisions of this Article not directly in conflict with this subsection shall apply
20 in this subsection. This subsection does not apply to sales of property in this State or to
21 the use, storage, or consumption of property when purchased for use in this State. In
22 these cases, the full sales or use tax shall be paid. All provisions of this Article,
23 including the administrative provisions, apply to the tax imposed by this subsection
24 unless they directly conflict with this subsection. the provisions of this paragraph shall
25 be applicable with respect to the matters herein set forth. The provisions of this
26 paragraph shall not be applicable with respect to sales of such property within this State
27 or to the use, storage or consumption of such property when purchased for use in this
28 State, and in such cases the full sales or use tax shall be paid as in all other cases,
29 irrespective of the period of intended use in this State."

30 Sec. 3.4. G.S. 105-164.13(16) reads as rewritten:

31 "(16) Sales of used articles ~~other than motor vehicles~~ taken in trade, or a series of
32 trades, as a credit or part payment on the sale of a new article, ~~provided the tax levied in~~
33 ~~this Article is paid on the gross sales price of the new article. In the interpretation of~~
34 ~~this subsection, new article shall be taken to mean article. 'New article' means the~~
35 ~~original stock in trade of the merchant-merchant, and shall is not be limited to newly~~
36 ~~manufactured articles. The resale of articles other than motor vehicles, repossessed by~~
37 ~~the vendor shall likewise be exempt from gross sales taxable under this Article."~~

38 Sec. 3.5. G.S. 105-164.13(32) reads as rewritten:

39 "(32) Sales of motor vehicles. vehicles, as defined in G.S. 105-164.3(8a), to
40 ~~nonresident purchasers for immediate transportation to and use in another state in which~~
41 ~~such vehicles are required to be registered, provided the seller obtains from the~~
42 ~~purchaser and furnishes to the Secretary of Revenue an affidavit stating the name and~~
43 ~~address of the purchaser, the state in which the vehicle will be registered and operated,~~
44 ~~the make, model, and serial number of the vehicle, and such other information as the~~

1 Secretary may require, and provided further that no exemption shall be allowed unless
2 the affidavit is filed with the seller's sales and use tax report for the month during which
3 the sale is made and such report is timely filed. For sales made by a seller who is not a
4 retailer, this exemption applies if the purchaser furnishes the Secretary an affidavit
5 containing the information otherwise required from a retailer within 45 days of the date.

6 Sec. 3.6. G.S. 105-467 reads as rewritten:

7 "**§ 105-467. Sales tax imposed; limited to items on which the State now imposes a**
8 **three percent sales tax. Scope of sales tax.**

9 The sales tax which may be imposed under this Article is limited to a tax at the rate
10 of one percent (1%) of:

- 11 (1) The sales price of those articles of tangible personal property now
12 subject to the three percent (3%) sales tax imposed by the State
13 under G.S. ~~105-164.4(1)~~105-164.4(a)(1) and (4b);
- 14 (2) The gross receipts derived from the lease or rental of tangible
15 personal property ~~where~~when the property is not a motor vehicle
16 and the lease or rental of such ~~the~~ property is an ~~established~~
17 ~~business now~~ subject to the three percent (3%) sales tax imposed
18 by the State under G.S. ~~105-164.4(2)~~105-164.4(a)(2);
- 19 (3) The gross receipts derived from the rental of any room or lodging
20 furnished by any hotel, motel, inn, tourist camp or other similar
21 accommodations now subject to the three percent (3%) sales tax
22 imposed by the State under G.S. ~~105-164.4(3)~~105-164.4(a)(3);
23 and
- 24 (4) The gross receipts derived from services rendered by laundries, dry
25 cleaners, cleaning plants and similar type businesses now subject to
26 the three percent (3%) sales tax imposed by the State under G.S.
27 ~~105-164.4(4)~~105-164.4(a)(4).

28 The sales tax authorized by this Article does not apply to sales ~~by a utility of electricity,~~
29 ~~piped natural gas, local, toll, or private telecommunications services as defined by G.S.~~
30 ~~105-120(a).~~ that are taxable by the State under G.S. 105-164.4 but are not specifically
31 included in subdivisions (1) through (4) of this section.

32 The exemptions and exclusions contained in G.S. 105-164.13 and the refund
33 provisions contained in G.S. 105-164.14 shall apply with equal force and in like manner
34 to the local sales and use tax authorized to be levied and imposed under this Article. A
35 taxing county shall have no authority, with respect to the local sales and use tax
36 imposed under this Article to change, alter, add to or delete any refund provisions
37 contained in G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-
38 164.13 or which are elsewhere provided for.

39 The local sales tax authorized to be imposed and levied under the provisions of this
40 Article shall ~~be applicable~~ apply to such retail sales, leases, rentals, rendering of
41 services, furnishing of rooms, lodgings or accommodations and other taxable
42 transactions which are made, furnished or rendered by retailers whose place of business
43 is located within the taxing county. The tax imposed shall apply to the furnishing of
44 rooms, lodging or other accommodations within the county which are rented to

1 transients. For the purpose of this Article, the situs of a transaction is the location of the
2 retailer's place of business."

3 Sec. 3.7. G.S. 105-468 reads as rewritten:

4 **"§ 105-468. Use tax imposed; limited to items upon which the State now imposes a**
5 **three percent use tax. Scope of use tax.**

6 The use tax which may be imposed under this Article shall be at the rate of one
7 percent (1%) of the cost price of each item or article of tangible personal property when
8 ~~the same~~ it is not sold but used, consumed or stored for use or consumption in the taxing
9 county, except that no tax shall be imposed upon ~~such~~ tangible personal property when;
10 if the property were subject to the use tax imposed by G.S. 105-164.6, such property
11 would be taxed by the State of North Carolina at a rate less than three percent (3%). the
12 property would be taxed by the State at a rate of other than three percent (3%) if it were
13 taxable under G.S. 105-164.6.

14 Every retailer engaged in business in this State and in the taxing county and required
15 to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent (1%)
16 use tax when such property is to be used, consumed or stored in the taxing county, ~~said~~
17 one percent (1%) use tax to be collected concurrently with the State's use tax; but no
18 retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to
19 collect the one percent (1%) use tax. The use tax contemplated by this section shall be
20 levied against the purchaser, and ~~his~~ the purchaser's liability for ~~such~~ the use tax shall be
21 extinguished only upon ~~his~~ payment of the use tax to the retailer, where the retailer is
22 required to collect the tax, or to the Secretary of Revenue, or to the taxing county, as
23 appropriate, where the retailer is not required to collect the tax.

24 Where a local sales or use tax has been paid with respect to ~~said~~ tangible personal
25 property by the ~~purchaser thereof,~~ purchaser, either in another taxing county within the
26 State, or in a taxing jurisdiction outside the State where the purpose of the tax is similar
27 in purpose and intent to the tax which may be imposed pursuant to this Article, ~~said tax~~
28 the tax paid may be credited against the tax imposed under this section by a taxing
29 county upon the same property. If the amount of sales or use tax so paid is less than the
30 amount of the use tax due the taxing county under this section, the purchaser shall pay
31 to the Secretary of Revenue or to the taxing county, as appropriate, an amount equal to
32 the difference between the amount so paid in the other taxing county or jurisdiction and
33 the amount due in the taxing ~~county hereunder.~~ county. The Secretary of Revenue or
34 the taxing county, as appropriate, may require such proof of payment in another taxing
35 county or jurisdiction as is deemed to be ~~necessary and proper.~~ necessary. The use tax
36 levied ~~hereunder shall not be~~ under this Article is not subject to credit for payment of
37 any State sales or use tax not imposed for the benefit and use of counties and
38 municipalities. No credit shall be given under this section for sales or use taxes paid in
39 a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar
40 credit for sales taxes paid under this Article."

41 Sec. 3.8. Section 4 of Chapter 1096 of the 1967 Session Laws, as amended,
42 is amended as follows:

- 43 (1) By rewriting the heading to the section to read: "Scope of Sales
44 Tax.";

- 1 (2) By deleting the reference "105-164.4(1)" and substituting the
2 reference "105-164.4(a)(1) and (4b)";
- 3 (3) By rewriting subpart (2) of the first paragraph to read:
4 "(2) the gross receipts derived from the lease or rental of tangible
5 personal property when the lease or rental of the property is subject
6 to the three percent (3%) sales tax imposed by the State under G.S.
7 105-164.4(a)(2)";
- 8 (4) By deleting the references "105-164.4(3)" and "105-164.4(4)" and
9 substituting the references "105-164.4(a)(3)" and "105-
10 164.4(a)(4)" respectively; and
- 11 (5) By rewriting the last sentence of the first paragraph of that section
12 to read:

13 "The taxes authorized by this division do not apply to sales that are taxable by the
14 State under G.S. 105-164.4 but are not specifically listed in this section."

15 Sec. 3.9. Section 5 of Chapter 1096 of the 1967 Session Laws, as amended,
16 is amended in the first sentence by deleting the phrase "when, if the property were
17 subject to the use tax imposed by G.S. 105-164.6, such property would be taxed by the
18 State of North Carolina at a rate less than three percent (3%)" and substituting the phrase
19 "when the property would be taxable by the State at a rate of other than three percent
20 (3%) if it were taxable under G.S. 105-164.6".

21 Sec. 3.11. G.S. 136-16.4 is repealed.

22 PART IV.

23 MOTOR VEHICLE USE TAX.

24 Sec. 4.1. Chapter 105 of the General Statutes is amended by adding a new
25 Article to read:

26 "ARTICLE 5A.

27 "NORTH CAROLINA MOTOR VEHICLE USE TAX.

28 "§ 105-165. Definitions.

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

- 30 (1) 'Commissioner' means the Commissioner of Motor Vehicles.
31 (2) 'Division' means the Division of Motor Vehicles, Department of
32 Transportation.

33 "§ 105-166. Motor Vehicle use tax imposed.

34 A tax is imposed on the privilege of selling, leasing, or using a motor vehicle in this
35 State. This tax is in addition to all other taxes and fees imposed.

36 "§ 105-167. Rate of tax.

37 (a) Sales. The tax is imposed at the following rates of the retailer's net taxable
38 sales, or gross receipts from the lease or rental of a motor vehicle, as appropriate.

- 39 (1) At the rate of three percent (3%) of the sales price of each motor
40 vehicle sold at retail, including all accessories attached to the
41 vehicle when it is delivered to the purchaser. If the motor vehicle
42 is a commercial motor vehicle, the tax under this subdivision may
43 not exceed one thousand five hundred dollars (\$1,500).

1 Notwithstanding G.S. 105-164.3(16) and regardless whether the seller
2 is a retailer, the sales price of a motor vehicle is the gross sales price of
3 the motor vehicle less any allowance given for a motor vehicle taken
4 in trade as part of the consideration for the purchased motor vehicle.
5 Further, the gross sales price of a motor vehicle sold by a seller who is
6 not a retailer is the value of the vehicle set in a schedule of values
7 adopted by the Commissioner of Motor Vehicles. In adopting a
8 schedule of values for motor vehicles, the Commissioner shall adopt a
9 schedule whose values do not exceed the wholesale values of motor
10 vehicles as published in a recognized automotive reference manual.
11 The separate sale of a motor vehicle chassis and a motor vehicle body
12 to be installed on the chassis, whether by the same or different
13 retailers, is subject to the tax imposed by this subdivision on a single
14 motor vehicle. The tax imposed by this subdivision does not apply to
15 the sale of a motor vehicle body that is mounted on a motor vehicle
16 chassis that temporarily enters the State so the body can be mounted
17 on the chassis by the manufacturer of the body.

18 The tax imposed under this subdivision applies to all retail sales of
19 motor vehicles regardless whether the seller is engaged in business
20 as a retailer of motor vehicles or whether a tax on the sale of the
21 vehicle has previously been paid under this Article. When, as an
22 incident to the organization of a partnership or a corporation,
23 property is transferred by an individual to the partnership or
24 corporation and no gain or loss arises on the transfer under section
25 351 or section 721 of the Code, the transfer is not a retail sale under
26 this subdivision.

27 A purchaser of a motor vehicle from a retailer shall pay the tax
28 imposed under this subdivision to the retailer, who is liable for
29 collecting and remitting the tax to the Secretary. A purchaser of a
30 motor vehicle from a person who is not a retailer is liable for
31 payment of the tax imposed by this subdivision; the purchaser shall
32 pay the tax to the Commissioner of Motor Vehicles when applying
33 for a certificate of title for the vehicle.

34 The Commissioner of Motor Vehicles may not issue a certificate of
35 title for a motor vehicle sold by a seller who is not a retailer unless the
36 tax imposed by this subdivision is paid when the purchaser of the
37 vehicle applies for a certificate of title. The Commissioner shall remit
38 taxes collected under this subdivision to the Secretary.

39 (2) A the rate of eight percent (8%) of the gross receipts derived from
40 the lease or rental of motor vehicles, except that if the motor
41 vehicle is rented or leased to the same person for a period of more
42 than 90 continuous days, for the period of the continuous rental or
43 lease to that person in excess of the first 90 days, the applicable
44 percentage rate is three percent (3%). For the lease or rental of a

1 commercial motor vehicle to the same person for a period of more
2 than 90 continuous days, the tax may not exceed one thousand five
3 hundred dollars (\$15,000); this maximum applies to the total tax
4 paid from the first day of the period of the lease or rental.

5 (b) Use. The tax imposed on the use of a motor vehicle in this State shall be a
6 the applicable percentage rate of the cost price of, or the monthly lease or rental price
7 paid, contracted, or agreed to be paid by the lessee or renter to the owner of the motor
8 vehicle of the motor vehicle that is used in this State, as appropriate. The applicable
9 percentage rate is the rate and the maximum tax, if any, that applies under subdivision
10 (a)(1) or (2) of this section. Where a tax under subdivision (a)(1) or (2) has already
11 been paid on the most recent sale or the current lease or rental of the vehicle, then that
12 tax shall be credited against the tax imposed by this subsection.

13 **"§ 105-168. Payment of tax.**

14 (a) The tax imposed by this Article is payable in the same manner as the tax
15 imposed under Article 5 of this Chapter

16 **"§ 105-169. Alternate tax for those who rent or lease motor vehicles.**

17 (a) Notwithstanding G.S. 105-164.3(13) and (15), a retailer who is engaged in
18 the business of leasing or renting motor vehicles and who purchases a motor vehicle to
19 be leased or rented in that business may elect to pay the tax imposed by G.S. 105-
20 167(a)(1) at the time of this purchase. A retailer who makes this election and pays the
21 tax under G.S. 105-167(a)(1) is not liable for the tax under subdivision (a)(2).

22 (b) To make the election, the retailer shall complete a form provided by the
23 Secretary giving information required by the Secretary. Once made, an election is
24 irrevocable.

25 **"§ 105-170. Exemptions and refunds not applicable**

26 (a) The exemptions from and refunds of sales and use taxes under Article 5 of
27 this Chapter do not apply to the tax imposed by this Article.

28 **"§ 105-171. Disposition of proceeds.**

29 Taxes collected under this Article during fiscal years 1989-90 and 1990-91 shall be
30 deposited in the General Fund. Thereafter, taxes collected under this Article shall be
31 deposited in the North Carolina Highway Trust Fund. In each fiscal year beginning
32 with fiscal year 1991-92, the State Treasurer shall transfer the sum of one hundred
33 seventy million dollars (\$170,000,000) from the Highway Trust Fund to the General
34 Fund. The State Treasurer shall transfer one-fourth of this amount at the end of each
35 quarter in the fiscal year.

36 **"§ 105-173. Administration.**

37 (a) Except as otherwise provided in this Article the tax imposed by this Article
38 shall be administered in the same manner as the tax imposed by Article 5.

39 **PART V.**

40 **MOTOR FUEL TAX INCREASE.**

41 Sec. 5.28. G.S. 105-434(a) reads as rewritten:

42 "(a) Tax. – An excise tax is levied on motor fuel sold, distributed, or used by a
43 distributor within this State at ~~the rate of fourteen cents (14¢) per gallon plus three~~
44 ~~percent (3%) of the average wholesale price of motor fuel, as determined semiannually~~

1 by the Secretary of Revenue from a flat rate of seventeen cents (17¢) per gallon, plus a
 2 variable rate of either three and one-half cents (3 1/2¢) per gallon or seven percent (7%)
 3 of the average wholesale price of motor fuel for the applicable base period, whichever is
 4 greater. The Secretary of Revenue shall semiannually determine the average wholesale
 5 price of motor fuel using information on refiner and gas plant operator sales prices of
 6 finished motor gasoline and No. 2 diesel fuel for resale, published by the United States
 7 Department of Energy in the 'Monthly Energy Review,' or on equivalent data. The
 8 Secretary shall determine the average wholesale price of motor fuel by computing the
 9 average sales price of finished motor gasoline for the base period, computing the
 10 average sales price for No. 2 diesel fuel for the base period, and then computing a
 11 weighted average of the results of the first two computations based on the proportion of
 12 tax collected under this Article on motor fuel and Article 36A on fuel for the base
 13 period. The Secretary shall notify affected taxpayers of the tax rate to be in effect for
 14 each six-month period beginning January 1 and July 1.

15 To facilitate ~~collection~~ administration of the motor fuel tax, the Secretary shall
 16 convert the ~~percentage rate~~ wholesale percentage component to a cents-per-gallon rate
 17 ~~to be in effect during the six-month period beginning each January 1 and July 1.~~ The
 18 ~~rate to be in effect during~~ for the six-month period beginning January 1 shall be
 19 computed from data published for the six-month base period ending on the preceding
 20 September 30, and the ~~rate to be in effect during~~ for the six-month period beginning
 21 July 1 shall be computed from data published for the six-month base period ending on
 22 the preceding March 31. The cents-per-gallon rate computed by the Secretary shall be
 23 rounded to the nearest one-tenth of a cent (1/10¢). If the cents-per-gallon rate computed
 24 by the Secretary is exactly between two tenths of a cent, the rate shall be rounded up to
 25 the higher of the two."

26 Sec. 5.29. G.S. 105-446 reads as rewritten:

27 "**§ 105-446. Refund for tax on motor fuel used other than to propel a motor vehicle.**

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

36 Sec. 5.30. G.S. 105-446.1 reads as rewritten:

37 "**§ 105-446.1. Refunds of taxes paid by counties and municipalities. Refund of tax**
 38 **paid on motor fuel by certain governmental entities and nonprofit**
 39 **organizations.**

40 The following ~~entities shall be entitled to reimbursement for the tax levied by G.S.~~
 41 ~~105-434 upon filing a statement in writing with the Secretary of Revenue, which~~
 42 ~~statement shall be made upon the oath or affirmation of the chief executive officer of~~
 43 ~~said entity, showing the number of gallons of fuel purchased and used by said entity on~~
 44 ~~which the tax levied by G.S. 105-434 has been paid: the Board of Transportation,~~

1 counties, municipal corporations, volunteer fire departments, county fire departments,
2 volunteer rescue squads, and "sheltered workshop" organizations recognized and
3 approved by the Department of Human Resources. "Chief executive officer" shall mean
4 the Director of Highways, the mayor, city manager or other municipal officer
5 designated by the governing body of the municipality, the chairman of the board of
6 county commissioners or other county officer designated by the board of county
7 commissioners, or the president or other duly designated officer or agent of a volunteer
8 fire department, county fire department, volunteer rescue squad or "sheltered
9 workshop" organization. Reimbursement shall be at a rate equal to fourteen cents (14¢)
10 per gallon plus the wholesale cents per gallon rate of tax in effect during the quarter for
11 which the refund is claimed, less one cent (1¢) per gallon. An application for a refund
12 under this section shall be made in accordance with G.S. 105-440.

13 (a) A governmental entity or a nonprofit organization listed below that
14 purchases and uses motor fuel may receive a quarterly refund, for the tax paid during
15 the preceding quarter, at a rate equal to the amount of the flat cents-per-gallon rate plus
16 the variable cents-per-gallon rate in effect during the quarter for which the refund is
17 claimed, less one cent (1¢) per gallon. The following entities may receive a refund
18 under this section:

- 19 (1) The Department of Transportation;
- 20 (2) A county or a municipal corporation;
- 21 (3) A private, nonprofit organization that transports passengers under
22 contract with or at the express designation of a unit of local
23 government;
- 24 (4) A volunteer fire department;
- 25 (5) A volunteer rescue squad;
- 26 (6) A sheltered workshop recognized by the Department of Human
27 Resources.

28 (b) An application for a refund allowed under this section must be made in
29 accordance with G.S. 105-440 and must be signed by the chief executive officer of the
30 entity. The chief executive officer of the Department of Transportation is the Secretary
31 of Transportation. The chief executive officer of a county or municipal corporation is
32 the officer designated by the governing body of the county or municipal corporation,
33 such as the chair of a board of county commissioners or the mayor of a city. The chief
34 executive officer of a nonprofit organization is the president of the organization or
35 another officer of the organization designated in the charter or by-laws of the
36 organization."

37 Sec. 5.31. G.S. 105-446.3 reads as rewritten:

38 "**§ 105-446.3. Refund of taxes paid on motor fuels used in operation of motor buses**
39 **transporting fare city transit system, in operation of a taxicab**
40 **transporting fare at transportation services. Refund of tax paid on motor**
41 **fuel used to operate a taxicab or transit system bus.**

42 (a) Any person, association, firm or corporation, who shall purchase any motor
43 fuels, as defined in this Article, for the purpose of use, and the same is actually used, in
44 the operation of motor buses transporting fare paying passengers, in connection with a

1 city transit system or in the operation of a taxicab transporting fare paying passengers,
 2 both as hereinafter defined in subsection (b) of this section, or in the operation, by
 3 private nonprofit organizations, of motor vehicles transporting passengers under
 4 contract with or at the express designation of units of local government (such
 5 transportation above and hereinafter referred to as private nonprofit transportation
 6 services) shall be entitled to reimbursement for the tax levied by this Article upon filing
 7 with the Secretary of Revenue an application upon the oath or affirmation of the
 8 applicant or his agent showing the number of gallons of motor fuel so purchased and
 9 used. Reimbursement shall be at a rate equal to fourteen cents (14¢) per gallon plus the
 10 wholesale cents per gallon rate of tax in effect during the quarter for which the refund is
 11 claimed, less one cent (1¢) per gallon. An application for a refund allowed under this
 12 section shall be made in accordance with G.S. 105-440.

13 (b) For the purposes of this section the term "city transit system" means a system
 14 of mass public transportation authorized to operate within any municipality or within
 15 contiguous municipalities and within a zone adjacent to and commercially a part of such
 16 municipality or contiguous municipalities as defined by the North Carolina Utilities
 17 Commission under the provisions of G.S. 62-260. Any person, association, firm or
 18 corporation, who, in addition to the operation of a city transit system as herein defined,
 19 holds a certificate from the North Carolina Utilities Commission for operations outside
 20 of the municipal limits and adjacent commercial zones or who conducts exempt
 21 operations outside of the municipal limits or adjacent commercial zones shall be entitled
 22 to the refund provided by this section only on taxes levied upon motor fuels actually
 23 used in the operation of the city transit system. For the purposes of this section the term
 24 "taxicab" shall mean a taxicab as defined in G.S. 20-87(1); provided, however, that a
 25 city transit system as defined herein shall not include limousine operations.

26 A person who purchases and uses motor fuel in a taxicab, as defined in G.S. 20-
 27 87(1), or in a bus operated as part of a city transit system that is exempt from regulation
 28 by the North Carolina Utilities Commission under G.S. 62-260(8) may receive a
 29 quarterly refund, for the tax paid during the preceding quarter, at a rate equal to the flat
 30 cents-per-gallon rate plus the variable cents-per-gallon rate in effect during the quarter
 31 for which the refund is claimed, less one cent (1¢) per gallon. An application for a
 32 refund must be made in accordance with G.S. 105-440."

33 Sec. 5.32. G.S. 105-446.5 reads as rewritten:

34 "**§ 105-446.5. Refund of taxes paid on motor fuel used by concrete mixing vehicles,**
 35 **solid waste compacting vehicles, and certain agricultural vehicles.**

36 (a) Refund.

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

- 39 (1) A concrete mixing vehicle;
- 40 (2) A solid waste compacting vehicle;
- 41 (3) A bulk feed vehicle that delivers feed to poultry or livestock and
 42 uses a power take-off to unload the feed; and
- 43 (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a
 44 power take-off to unload the lime or fertilizer.

1 The refund rate shall be computed by subtracting one cent (1¢) from ~~fourteen cents~~
2 ~~(14¢) per gallon plus the average of the two wholesale cents per gallon rates of tax in~~
3 ~~effect during the year for which the refund is claimed, the combined amount of the flat~~
4 ~~cents-per-gallon rate in effect during the year for which the refund is claimed and the~~
5 ~~average of the two variable cents-per-gallon rates in effect during that year, and~~
6 multiplying the difference by thirty-three and one-third percent (33 1/3%). An
7 application for a refund allowed under this section shall be made in accordance with
8 G.S. 105-440. This refund is allowed for the amount of fuel consumed by the vehicle in
9 its mixing, compacting, or unloading operations, as distinguished from propelling the
10 vehicle, which amount is considered to be one-third of the amount of fuel consumed by
11 the vehicle."

12 Sec. 5.33. G.S. 105-446.6 reads as rewritten:

13 **"§ 105-446.6. Refund on taxpaid motor fuel transported to another state.**

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

24 Sec. 5.34. G.S. 105-449.39 reads as rewritten:

25 **"§ 105-449.39. Credit for payment of motor fuel tax.**

26 Every motor carrier subject to the tax levied by this Article is entitled to a credit for
27 tax paid by the carrier on fuel purchased in the State. ~~The credit shall be allowed at a~~
28 ~~rate equal to fourteen cents (14¢) per gallon plus the wholesale~~ at a rate equal to the flat
29 cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the
30 quarter for which the credit is claimed. Evidence of the payment of such tax in such
31 form as may be required by, or is satisfactory to, the Secretary shall be furnished by
32 each such carrier claiming the credit herein allowed. When the amount of the credit
33 herein provided to which any motor carrier is entitled for any quarter exceeds the
34 amount of the tax for which such carrier is liable for the same quarter, such excess may
35 under regulations of the Secretary be allowed as a credit on the tax for which such
36 carrier would be otherwise liable for another quarter or quarters; or upon application
37 duly verified and presented in accordance with regulations promulgated by the
38 Secretary and supported by such evidence as may be satisfactory to the Secretary, such
39 excess may be refunded to said motor carrier.

40 ~~Unless the Secretary of Revenue exercises his discretion as hereinafter provided, or~~
41 ~~as provided in G.S. 105-449.40, he shall allow such refund only after an audit of the~~
42 ~~applicant's records. However, he may, in his sole discretion, make refunds without prior~~
43 ~~audit or without having been furnished a bond pursuant to G.S. 105-449.40 if the motor~~
44 ~~carrier has complied with the provisions of this Subchapter and rules and regulations~~

1 ~~promulgated thereunder for a period of one full prior registration year.~~ To obtain this
2 credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax
3 for which the credit is claimed has been paid.

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

9 (1) Has furnished a bond under G.S. 105-449.40; or

10 (2) Has complied with this Subchapter and the rules adopted under the
11 Subchapter for at least a one-year period preceding the date the
12 application for a refund is filed."

13 Sec. 5.35. August 1, 1989, Inventory of Motor Fuel. Every distributor of
14 motor fuel, both at wholesale and at retail, must inventory all motor fuel on hand or in
15 his possession as of 12:01 a.m., August 1, 1989, and, on or before September 1, 1989,
16 must report to the Secretary of Revenue the amount of the motor fuel. When filing the
17 report, the distributor must remit to the Secretary of Revenue an additional tax on the
18 motor fuel of three cents (3¢) per gallon plus an amount equal to the increase in the tax
19 based on the increase in the variable cents-per-gallon tax effective August 1, 1989. The
20 report required must be in a form prescribed by the Secretary.

21 Sec. 5.36. August 1, 1989, Inventory of Special Fuel. Every supplier or
22 reseller of special fuel must inventory all special fuel on hand or in his possession as of
23 12:01 a.m., August 1, 1989, and, on or before September 1, 1989, must report to the
24 Secretary of Revenue the amount of the special fuel. When filing the report, the
25 supplier or reseller must remit to the Secretary of Revenue an additional tax on the
26 special fuel of three cents (3¢) per gallon plus an amount equal to the increase in the tax
27 based on the increase in the variable cents-per-gallon tax effective August 1, 1989. The
28 report required must be in a form prescribed by the Secretary.

29 Sec. 5.37. Motor Carrier Refund and Report. Notwithstanding G.S. 105-
30 449.39 to the contrary, a motor carrier that as of 12:01 a.m. on August 1, 1989, has on
31 hand or in its possession motor fuel or special fuel upon which it has paid the tax in
32 effect on July 31, 1989, is allowed a credit of only the amount of tax paid on the fuel
33 when filing the report required by G.S. 105-449.45. Notwithstanding G.S. 105-449.45,
34 a motor carrier must file a report in accordance with that section for the period July 1,
35 1989, through July 31, 1989, and for the period August 1, 1989, through September 30,
36 1989.

37 Sec. 5.38. Annual Refund Rate. Notwithstanding G.S. 105-446, 105-446.5,
38 and 105-449.24 to the contrary, the annual refund rate for tax paid on motor fuel or
39 special fuel for calendar year 1989 is at a rate equal to the weighted average of the two
40 flat cents-per-gallon rates plus the weighted average of the two variable cents-per-gallon
41 rates in effect during that year, less one cent (1¢) per gallon.

42 Sec. 5.39. Quarterly Refund Rate. Notwithstanding G.S. 105-446.1, 105-
43 446.3, and 105-449.24 to the contrary, the entities eligible under those statutes for a
44 refund of tax paid on motor fuel or special fuel are entitled to a refund at the rate of

1 fourteen and seven-tenths cents (14.7¢) per gallon for tax paid or accrued on fuel
2 purchased before August 1, 1989, but used on or after August 1, 1989.

3 **PART VI.**

4 **ESTIMATED INCOME TAX AMENDMENTS.**

5 Sec. 6.1. G.S. 105-163.15 reads as rewritten:

6 **"§ 105-163.15. Failure by individual to pay estimated income tax; penalty.**

7 (a) In the case of any underpayment of the estimated tax by an individual, there
8 shall be added to the tax imposed under Article 4 for the taxable year an amount
9 determined by applying the applicable annual rate established under G.S. 105-241.1(i)
10 to the amount of the underpayment for the period of the underpayment.

11 (b) For purposes of subsection (a), the amount of the underpayment shall be the
12 excess of the required installment, over the amount, if any, of the installment paid on or
13 before the due date for the installment. The period of the underpayment shall run from
14 the due date for the installment to whichever of the following dates is the earlier: (i) the
15 fifteenth day of the fourth month following the close of the taxable year, or (ii) with
16 respect to any portion of the underpayment, the date on which such portion is paid. A
17 payment of estimated tax shall be credited against unpaid required installments in the
18 order in which such installments are required to be paid.

19 (c) For purposes of this section there shall be four required installments for each
20 taxable year with the time for payment of the installments as follows:

- 21 (1) First installment – April 15 of taxable year;
- 22 (2) Second installment – June 15 of taxable year;
- 23 (3) Third installment – September 15 of taxable year; and
- 24 (4) Fourth installment – January 15 of following taxable year.

25 (d) Except as provided in subsection ~~(e)~~–(e), the amount of any required
26 installment shall be twenty-five percent (25%) of the required annual payment. The
27 term 'required annual payment' means the lesser of:

- 28 (1) ~~Eighty percent (80%)~~ Ninety percent (90%) of the tax shown on the
29 return for the taxable year, or, if no return is filed, ~~eighty percent~~
30 ~~(80%)~~ ninety percent (90%) of the tax for that year; or
- 31 (2) One hundred percent (100%) of the tax shown on the return of the
32 individual for the preceding taxable year, if the preceding taxable
33 year was a taxable year of 12 months and the individual filed a
34 return for that year.

35 (e) In the case of any required installment, if the individual establishes that the
36 annualized income installment is less than the amount determined under subsection (d),
37 the amount of the required installment shall be the annualized income installment, and
38 any reduction in a required installment resulting from the application of this subsection
39 shall be recaptured by increasing the amount of the next required installment determined
40 under subsection (d) by the amount of the reduction and by increasing subsequent
41 required installments to the extent that the reduction has not previously been recaptured.

42 In the case of any required installment, the annualized income installment is the
43 excess, if any, of (i) an amount equal to the applicable percentage of the tax for the
44 taxable year computed by placing on an annualized basis the taxable income for months

1 in the taxable year ending before the due date for the installment, over (ii) the aggregate
2 amount of any prior required installments for the taxable year. The taxable income shall
3 be placed on an annualized basis under rules prescribed by the Secretary. The applicable
4 percentages for the required installments are as follows:

5 (1) First installment — ~~twenty percent (20%);~~ twenty-two and one-half
6 percent (22.5%);

7 (2) Second installment — ~~forty percent (40%);~~ forty-five percent (45%);

8 (3) Third installment — ~~sixty percent (60%);~~ sixty-seven and one-half
9 percent (67.5%); and

10 (4) Fourth installment — ~~eighty percent (80%);~~ ninety percent (90%).

11 (f) No addition to the tax shall be imposed under subsection (a) if the tax shown
12 on the return for the taxable year reduced by the tax withheld under Article 4A is less
13 than forty dollars (\$40.00) or if the individual did not have any liability for tax under
14 Division II of Article 4 for the preceding taxable year.

15 (g) For purposes of this section, the term 'tax' means the tax imposed by Division
16 II of Article 4 minus the credits against the tax allowed by Article 4. The amount of the
17 credit allowed under Article 4A for withheld income tax for the taxable year is
18 considered a payment of estimated tax, and an equal part of that amount is considered to
19 have been paid on each due date of the taxable year, unless the taxpayer establishes the
20 dates on which all amounts were actually withheld, in which case the amounts so
21 withheld are considered payments of estimated tax on the dates on which such amounts
22 were actually withheld.

23 (h) If, on or before January 31 of the following taxable year, the taxpayer files a
24 return for the taxable year and pays in full the amount computed on the return as
25 payable, no addition to tax shall be imposed under subsection (a) with respect to any
26 underpayment of the fourth required installment for the taxable year.

27 (i) Notwithstanding the other provisions of this section, an individual who is a
28 farmer or fisherman for a taxable year is required to make only one installment payment
29 of tax for that year. This installment is due on or before January 15 of the following
30 taxable year but may be paid without penalty or interest on or before March 1 of that
31 year. The amount of the installment payment shall be the lesser of:

32 (1) Sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the tax shown on the
33 return for the taxable year, or, if no return is filed, sixty-six and
34 two-thirds percent ($66 \frac{2}{3}\%$) of the tax for that year; or

35 (2) One hundred percent (100%) of the tax shown on the return of the
36 individual for the preceding taxable year, if the preceding taxable
37 year was a taxable year of 12 months and the individual filed a
38 return for that year.

39 An individual is a farmer or fisherman for any taxable year if the individual's gross
40 income from farming or fishing, including oyster farming, for the taxable year is at least
41 sixty-six and two-thirds percent ($66 \frac{2}{3}\%$) of the total gross income from all sources for
42 the taxable year, or the individual's gross income from farming or fishing, including
43 oyster farming, shown on the return of the individual for the preceding taxable year is at

1 least sixty-six and two-thirds percent (66 2/3%) of the total gross income from all
2 sources shown on the return.

3 (j) In applying this section to a taxable year beginning on any date other than
4 January 1, there shall be substituted, for the months specified in this section, the months
5 that correspond thereto. This section shall be applied to taxable years of less than 12
6 months in accordance with rules prescribed by the Secretary.

7 (k) This section shall not apply to any estate or trust."

8

PART VII.

9

EFFECTIVE DATES.

10 Sec. 7.1. The prohibition imposed by G.S. 136-44.7(b) on changing the order
11 of unpaved roads set out in a published list of the top ten roads to be paved in a county
12 applies to lists adopted for fiscal years beginning with the 1988-89 fiscal year.

13 Sec. 7.2. This act does not affect the rights or liabilities of the State, a
14 taxpayer, or another person arising under a statute amended or repealed by this act
15 before its amendment or repeal; nor does it affect the right to any refund or credit of a
16 tax that would otherwise have been available under the amended or repealed statute
17 before its amendment or repeal.

18 Sec. 7.3. Part VI of this act is effective for taxable years beginning on and
19 after January 1, 1990. Except as otherwise provided in this act, the remainder of this act
20 shall become effective August 1, 1989. Part IV of this act shall not apply to a sale of a
21 motor vehicle made on or after that date pursuant to a written contract of sale entered
22 into before that date.

23 Sec. 7.4. On the date that contracts for all the projects in Article 14 of
24 Chapter 136 have been let, G.S. 20-85(b) is repealed, G.S. 105-171 is repealed, and Part
25 I and Part V of this act shall expire.