

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

H

1

HOUSE BILL 753*

Short Title: Sales Tax/Education/Salaries.

(Public)

Sponsors: Representative Rhyne.

Referred to: Education.

March 20, 1989

A BILL TO BE ENTITLED

1 AN ACT TO ESTABLISH A STATEWIDE CAREER DEVELOPMENT PROGRAM,
2 ADOPT A GRADUATED TEACHER SALARY SCHEDULE, PROVIDE A
3 SALARY INCREASE FOR TEACHERS AND STATE EMPLOYEES, INCREASE
4 THE STATE SALES TAX, REDUCE THE STATE SALES TAX ON FOOD AND
5 NON-PRESCRIPTION MEDICINE, PROVIDE FOR MONTHLY PAYMENT OF
6 UTILITY SALES AND FRANCHISE TAXES, AND CREATE THE PUBLIC
7 SCHOOL FINANCE FUND.
8

9 The General Assembly of North Carolina enacts:

10 Section 1. This act shall be known as the Teacher and State Employee Career
11 Development Act of 1989.

12 **PART I.**

13 **STATEWIDE CAREER DEVELOPMENT PROGRAM.**

14 Sec. 2. Chapter 115C of the General Statutes is amended by adding a new
15 Article to read:

16 **"ARTICLE 24E.**

17 **"CAREER DEVELOPMENT PROGRAM.**

18 **"§ 115C-363.29. Policy.**

19 It is the policy of the State of North Carolina to provide an adequate base salary for
20 and to encourage differentiation of all teachers and school administrators. In
21 furtherance of this policy, the General Assembly hereby establishes the Career
22 Development Program. Nothing in this Article may be construed to prohibit or
23 discourage a career development program for noncertified employees of the public
24 schools.

1 **"§ 115C-363.30. Career Development Program.**

2 The State Board of Education shall promulgate the Career Development Program.
3 The Program shall cover instructional personnel, instructional support personnel, and
4 administrators who require certification by the State Board as a condition of
5 employment. The Program shall be implemented in all local school administrative units
6 in 1989-90. The State Board shall adopt rules and set standards necessary to carry out
7 the provisions of the Program under this Article.

8 **"§ 115-363.31. Elements of the Program.**

9 (a) The Program objective is to improve the quality of classroom instruction, to
10 increase the attractiveness of teaching as a profession, and to encourage the recognition
11 and retention of high quality teachers.

12 (b) The Program shall be based on continuous, comprehensive evaluation of
13 teacher performance as indicated by multiple sources of information. Classroom
14 performance shall be a significant part of the evaluation process and evaluation shall be
15 based on indicators associated with effective classroom practices and other criteria.

16 (c) In order to facilitate the placement and movement of personnel within the
17 Program, the State Board may establish personnel policies designed to assure
18 appropriate placement of employees at levels of differentiation in each local school
19 administrative unit; provided, however, that arbitrary caps or quotas on the number of
20 employees placed in each level of differentiation may not be established. If there is
21 evidence that a local school administrative unit is improperly placing employees at each
22 level of differentiation, or is improperly evaluating employees pursuant to G.S. 115C-
23 326, the State Board shall study the staffing patterns and performance evaluations for
24 that unit and may take whatever corrective action it deems necessary.

25 (d) The Program shall include a process for administration, periodic review, and
26 evaluation. The criteria and procedures for advancement under the Program shall be
27 made public and instruction shall be provided for teachers about these criteria and
28 procedures prior to the implementation of the process.

29 (e) The Program shall provide for a teacher to move to a lower career status
30 either by the teacher's choice or based on unacceptable performance review. The
31 Program shall provide an appeal process that provides prompt and impartial review of
32 decisions to move a teacher to a lower level in the Program because of unacceptable
33 performance.

34 (f) The Program for instructional personnel and instructional support personnel
35 shall be designed to give an employee increasing responsibility, recognition, and pay as
36 the employee gains experience and professional ability. Levels of differentiation shall
37 be based on an employee's initiative and desire to increase his professional abilities and
38 on his success in doing so. The program shall further provide for annual methods of
39 evaluation using practicing educators, opportunities to correct deficiencies, and
40 dismissal of employees who, after ample opportunities, are unable or refuse to perform.

41 (g) The Program for administrators shall be designed to give each administrator,
42 including the superintendent, clear opportunities for advancement, recognition, and
43 increased pay if the employee demonstrates high effectiveness in the position. Levels of
44 differentiation shall be based on the employee's initiative and desire to increase his

1 professional abilities and his success in doing so. The Program for administrators shall
2 include methods and instruments of evaluation that will determine what level of
3 performance, effort, and ability and what accomplishments warrant different salary
4 classifications, and at what point dismissal or reassignment of an administrator is
5 warranted.

6 The Program for administrators shall be comparable to the Program for instructional
7 personnel and instructional support personnel except that (i) administrators
8 participating in the Program shall waive their rights as administrators under G.S. 115C-
9 325, and (ii) evaluation of the administrator shall be the responsibility of the local
10 superintendent or the superintendent's designee. The salary differentiation steps for
11 administrators shall track the salary differentiation steps for teachers as defined in this
12 Article. The superintendent shall be evaluated by the local school board using
13 performance standards developed by the State Board of Education or by local boards of
14 education.

15 **"§ 115C-363.32. Levels of differentiation; salary.**

16 (a) During the first and second years of employment, the employee shall be
17 assigned 'initial status' and shall be paid in accordance with the State base salary
18 schedule. A mentor or a support team shall be assigned to the employee for assistance
19 and professional development.

20 (b) During the third year of employment, the employee who is fully certified
21 shall be assigned 'provisional status' and shall be paid in accordance with the State base
22 salary schedule.

23 (c) If by the end of the third year the employee meets the evaluation standards
24 established by the State Board of Education and is recommended for promotion to
25 'Career Status I' by the local board of education, Career Status I shall be conferred upon
26 the employee and, effective with the next ensuing fiscal year, the employee shall receive
27 a salary equal to one hundred five percent (105%) of the employee's base salary as
28 provided in the State salary schedule.

29 If by the end of the third year the employee's evaluation has not been at least
30 standard in all functions, the principal shall recommend the employee for contract
31 termination.

32 (d) No earlier than the third year in Career Status I, the employee may apply for
33 'Career Status II'. If by the end of the third year in Career Status I the employee meets
34 the evaluation standards established by the State Board of Education and is
35 recommended for promotion to Career Status II by the local board of education, Career
36 Status II shall be conferred upon the employee and, effective with the next ensuing
37 fiscal year, the employee shall receive a salary equal to one hundred fifteen percent
38 (115%) of the employee's base salary as provided in the State salary schedule.

39 A Career Status II employee whose annual evaluation(s) indicate that the
40 employee is not maintaining the standards required to remain in Career Status II shall be
41 formally reevaluated. If the formal reevaluation indicates that the employee is not
42 maintaining the required performance level, the principal shall recommend a
43 reclassification of that employee.

44 A Career Status II employee may move voluntarily to Career Status I.

1 (e) No earlier than the third year in Career Status II the employee may apply for
2 'Career Status III'. If by the end of the third year in Career Status II the employee meets
3 the evaluation standards established by the State Board of Education or performance
4 criteria established by the local board of education and approved by the State Board and
5 is recommended for promotion to Career Status III by the local board of education,
6 Career Status III shall be conferred upon the employee and, effective with the next
7 ensuing fiscal year, the employee shall receive a salary equal to one hundred twenty-
8 five percent (125%) of the employee's base salary as provided in the State salary
9 schedule.

10 A Career Status III employee whose annual evaluation(s) indicate that the
11 employee is not maintaining the standards required to remain in Career Status III shall
12 be formally reevaluated. If the formal reevaluation indicates the employee is not
13 maintaining the required performance, the principal shall recommend a reclassification
14 of that employee.

15 A Career Status III employee may move voluntarily to Career Status II.

16 **"§ 115C-363.33. Reclassification; appeals.**

17 (a) Any employee who is denied an advanced career status or whose career status
18 is reduced by decision of the local board of education shall have an opportunity for
19 appeal. The employee may request and upon request shall be provided a review by a
20 three-member appeals panel chosen from a roster of trained evaluators. One member of
21 the panel shall be chosen by the principal and approved by the superintendent, one shall
22 be chosen by the employee, and one shall be chosen jointly by the principal and the
23 employee. The panel shall report its findings to the employing local board of education
24 and the local board shall take final action on the matter.

25 (b) If an employee is reclassified to a lower career status, either voluntarily or by
26 decision of the local board of education, the employee may receive no more than the
27 salary appropriate for a person in the career status level to which the employee was
28 reclassified; provided, however, that a reclassification may not be considered a
29 demotion for purposes of G.S. 115C-325.

30 **"§ 115C-363.34. Additional duties for Career Status II and Career Status III**
31 **teachers.**

32 A Career Status II teacher or a Career Status III teacher may apply for additional
33 responsibilities during the 10-month school year. Responsibilities for which the
34 employee may apply and be selected shall be based on the needs of the local school
35 administrative unit and shall include duties requiring a leadership role in instruction
36 areas and not routine duties. These duties may include being a mentor teacher,
37 supervising student teachers, curriculum development, being a staff development
38 leader/coordinator, and serving as department chairman or grade chairman. Career
39 Status III teachers shall receive first consideration for duties such as serving as
40 department chairman, grade level chair, or lead teacher. Career Status II teachers shall
41 receive first consideration for duties such as being a mentor teacher, supervising student
42 teachers, and leadership in curriculum study and development, accreditation study,
43 program evaluation and research, materials development, staff training, and special

1 projects. An employee shall receive additional pay for any month in which he performs
2 these duties at a rate determined by the local board of education.

3 A Career Status II or Career Status III teacher may also apply for employment
4 during the summer in teaching, curriculum development, and staff development. The
5 employee's salary and benefits during the summer shall be at the same rate as the
6 employee's base salary during the previous 10-month school year.

7 Local units shall receive an allocation of summer months of employment for
8 summer school teaching, curriculum development, and staff development. The
9 allocation shall be one month of employment for each of 10 State-allocated teachers.

10 The State Board of Education shall allocate funds to local school administrative
11 units to compensate Career Status II and Career Status III teachers for extra duties
12 performed. These funds shall be allocated on an average daily membership basis from
13 the base of five percent (5%) of the annual salary of individuals on Career Status II and
14 Career Status III levels. Up to ten percent (10%) of the allocation to a local school
15 administrative unit may be used for substitute pay to provide released time for teachers
16 approved to perform specified leadership tasks that must be performed during class
17 hours.

18 Local school administrative units shall assign any extra duties to Career Status II and
19 Career Status III teachers, pursuant to this section, in such a way as to minimize the
20 time these teachers spend away from their classes during regular class hours.

21 **"§ 115C-363.35. Evaluators.**

22 The State Board of Education shall establish an appropriate training program for
23 evaluators and administrators who carry out the provisions of this Article. The State
24 Board shall also set standards for the qualification of evaluators, and shall assist each
25 local unit in implementing the evaluator and administrator training programs established
26 by the Board.

27 The local board of education in each local administrative unit shall select and train
28 evaluators who shall meet evaluation standards set by the State Board of Education and
29 who shall work with principals in carrying out the appropriate provisions of the Career
30 Development Program.

31 Each evaluator shall be a practicing educator temporarily assigned to such duties and
32 shall be employed by the local board for which the evaluator is serving as an evaluator.
33 Evaluators shall be paid the same salary as supervisors on the State base salary
34 schedule. The State Board shall adopt rules regarding the employment and use of
35 evaluators.

36 Local boards of education may apply to the State Board of Education for approval of
37 variances from the requirements of this section when such variances will, in the
38 judgment of the State Board, enhance the effective implementation of the Program.

39 **"§ 115C-363.36. Local coordinator of career development.**

40 The State Board of Education shall allot at least 12 months of professional staff time
41 to each local administrative unit for a coordinator of career development. The
42 coordinator's pay grade shall be set by the State Board within funds appropriated for this
43 purpose.

44 **"§ 115C-363.37. Implementation of Career Development Program.**

1 Effective July 1, 1989, local school administrative units shall prepare to implement
2 the Career Development Program. All local units shall use the evaluation process
3 adopted by the State Board. In addition to using the State appraisal instrument and the
4 evaluation process adopted by the State Board, local units may develop and implement
5 an alternative evaluation program approved in advance by the State Board.

6 Notwithstanding the time-in-status provisions of G.S. 115C-363.32 and in order to
7 fully implement the Career Development Program as rapidly as possible, the following
8 shall apply:

9 (1) During fiscal year 1989-90, all employees with 20 or more years of
10 service may elect to be candidates for advancement to Career Status I.
11 Candidates who are recommended for promotion to Career Status I
12 pursuant to this subdivision shall be advanced to Career Status I as of
13 July 1, 1990.

14 (2) Beginning July 1, 1990, employees advanced to Career Status I
15 pursuant to subdivision (1) above may elect to be candidates for
16 advancement to Career Status II. Candidates who are recommended
17 for promotion to Career Status II pursuant to this subdivision shall be
18 advanced to Career Status II as of July 1, 1992.

19 (3) On July 1, 1989, employees who have participated in the Certified
20 School Personnel Evaluation Pilot Program established in Article 24A
21 of the General Statutes, or in the Career Development Pilot Program
22 established in Article 24B of the General Statutes and have been
23 recommended for promotion to Career Status I or Career Status II shall
24 be advanced and receive the salary commensurate with their status as
25 provided in G.S. 115C-363.32.

26 (4) Beginning July 1, 1990, all employees eligible for 'career status'
27 pursuant to G.S. 115C-325 may elect to be candidates for advancement
28 to Career Status I. Candidates who are recommended for promotion to
29 Career Status I pursuant to this subdivision shall be advanced to Career
30 Status I as of July 1, 1991.

31 **"§ 115C-363.38. Employees' option to participate in the Career Development**
32 **Program.**

33 An individual employed by a local board of education prior to the implementation in
34 that local school administrative unit of a program or plan applicable to that employee
35 may opt to participate in the Career Development Program established by this Article or
36 to continue under the system of employment in effect prior to implementation of the
37 Career Development Program.

38 A person employed by a local board of education after the implementation in that
39 local school administrative unit of a plan or program applicable to him shall participate
40 in the Career Development Program and may not elect to be under a system of
41 employment in effect prior to the time the person was employed."

42 Sec. 3. There is appropriated from the General Fund to the Department of
43 Public Education the sum of fifty million one hundred thousand dollars (\$50,100,000)
44 for the 1989-90 fiscal year, and the sum of seventy-eight million six hundred thousand

1 dollars (\$78,600,000) for the 1990-91 fiscal year to be used for statewide
 2 implementation of the Career Development Program.

3 **PART II.**

4 **TEACHER SALARY SCHEDULE.**

5 Sec. 4. (a) Effective July 1, 1989, the following salary schedule shall be
 6 applicable to certified personnel of the public schools who are classified as "A" teachers:

7		1989-90	1990-91	1991-92
8	YEARS OF	ANNUAL	ANNUAL	ANNUAL
9	<u>EXPER.</u>	<u>SALARY</u>	<u>SALARY</u>	<u>SALARY</u>
10	0	\$19,120	\$19,780	\$20,500
11	1	19,580	20,230	20,910
12	2	19,740	20,610	21,330
13	3	19,900	20,900	21,750
14	4	20,070	21,200	22,190
15	5	20,760	21,500	22,630
16	6	21,660	22,080	23,090
17	7	21,830	22,780	23,550
18	8	22,010	23,100	24,020
19	9	22,640	23,430	24,500
20	10	22,820	23,990	24,990
21	11	23,010	24,330	25,490
22	12	23,820	24,680	26,000
23	13	24,020	25,350	26,520
24	14	24,850	25,710	27,050
25	15	25,050	26,410	27,590
26	16	25,930	26,790	28,140
27	17	26,880	27,520	28,700
28	18	27,100	28,300	29,280
29	19	28,100	28,690	29,860
30	20	28,330	29,510	30,460
31	21	29,360	29,930	31,070
32	22		29,590	30,770
33	23		29,830	31,200
34	24		30,080	31,640
35	25		30,330	32,090
36	26		30,580	32,540
37	27		30,850	33,010
38	28		31,110	33,490
39	29+	31,380	33,970	36,400

40 Longevity payments for years 1989-90 and beyond are included in the salary
 41 schedule amounts for those years.

42 (b) Effective July 1, 1989, the following salary schedule shall be applicable to
 43 certified personnel who are classified as "G" teachers:

44		1989-90	1990-91	1991-92
----	--	---------	---------	---------

	<u>YEARS OF EXPER.</u>		<u>ANNUAL SALARY</u>	<u>ANNUAL SALARY</u>	<u>ANNUAL SALARY</u>
1					
2					
3	0	20,690	21,140	21,530	
4	1	21,270	21,780	21,960	
5	2	21,470	22,110	22,390	
6	3	21,670	22,450	22,840	
7	4	21,880	22,790	23,300	
8	5	22,640	23,150	23,770	
9	6	23,390	23,760	24,240	
10	7	23,620	24,370	24,730	
11	8	23,840	24,750	25,220	
12	9	24,630	25,130	25,720	
13	10	24,860	25,770	26,240	
14	11	25,100	26,170	26,760	
15	12	25,350	26,570	27,300	
16	13	26,190	26,980	27,840	
17	14	27,090	27,680	28,400	
18	15	27,350	28,410	28,970	
19	16	28,310	28,850	29,550	
20	17	28,580	29,610	30,140	
21	18	29,560	30,070	30,740	
22	19	29,840	30,860	31,360	
23	20	30,890	31,330	31,990	
24	21	31,190	32,170	32,620	
25	22	32,270	32,660	33,280	
26	23	32,580	33,530	33,940	
27	24	32,890	34,040	34,620	
28	25	33,210	34,570	35,310	
29	26	33,530	35,100	36,020	
30	27	33,860	35,640	36,740	
31	28	34,200	36,200	37,480	
32	29+	34,540	36,760	38,230	

33 Longevity payments for years 1989-90 and beyond are included in the salary
34 schedule amounts for those years.

35 (c) Educators shall be placed on the new salary schedule based on years of
36 experience and shall receive the salary increases necessary to bring them to the
37 appropriate level on the schedule; provided, however, that no educator's salary may be
38 reduced as a result of the educator's placement on the salary schedule.

39 (d) Enactment of this salary schedule may not be construed to diminish or
40 rescind additions to salary amounts provided by law for teacher participation in the
41 Career Development Program.

42 (e) The State Board of Education shall adopt rules necessary to implement
43 this act.

1 Sec. 5. There is appropriated from the General Fund to the Department of
 2 Public Education the sum of one hundred three million five hundred thousand dollars
 3 (\$103,500,000) for the 1989-90 fiscal year, and the sum of one hundred ninety-seven
 4 million dollars (\$197,000,000) for the 1990-91 fiscal year, to be used for the
 5 implementation of the new salary schedule for "A" and "G" teachers as set forth in
 6 Section 4 of this act.

7 **PART III.**
 8 **SALARY INCREASE FOR STATE EMPLOYEES.**

9 **—PURPOSE**

10 Sec. 6. The purpose of this Part is to grant an across-the-board salary
 11 increase of four percent (4%) to State employees subject to the State Personnel Act for
 12 fiscal year 1989-90 and an additional across-the-board salary increase of three percent
 13 (3%) to State employees subject to the State Personnel Act for fiscal year 1990-91; to
 14 establish a reserve to be awarded to such employees as performance pay in accordance
 15 with legislation to be enacted by the 1989 General Assembly, such performance pay for
 16 fiscal year 1989-90 to be retroactive to July 1, 1989; and to grant to State employees
 17 and officers, to University of North Carolina employees, and to community college
 18 personnel supported by State funds, not subject to the State Personnel Act, salary
 19 increases as set out in this Part.

20 **—APPROPRIATIONS**

21 Sec. 7. (a) There is appropriated from the General Fund to a Reserve in the
 22 Office of State Budget and Management for fiscal year 1989-90 the sum of forty-nine
 23 million five hundred forty-six thousand dollars (\$49,546,000) and for fiscal year 1990-
 24 91 the sum of eighty-eight million nine hundred thirty-six thousand dollars
 25 (\$88,936,000) to provide a four percent (4%) across-the-board salary increase in fiscal
 26 year 1989-90 and a three percent (3%) across-the-board salary increase in fiscal year
 27 1990-91, to State employees subject to the State Personnel Act.

28 (a1) There is appropriated from the Highway Fund to a Reserve in the Office
 29 of State Budget and Management for fiscal year 1989-90 the sum of eleven million
 30 seven hundred thirty thousand dollars (\$11,730,000) and for fiscal year 1990-91 the sum
 31 of twenty million seven hundred thirty thousand dollars (\$20,730,000) to provide a four
 32 percent (4%) across-the-board salary increase in fiscal year 1989-90 and a three percent
 33 (3%) across-the-board salary increase in fiscal year 1990-91, to State employees subject
 34 to the State Personnel Act.

35 (b) There is appropriated from the General Fund to a Reserve in the Office of
 36 State Budget and Management for fiscal year 1989-90 the sum of twenty-four million
 37 seven hundred seventy-three thousand dollars (\$24,773,000) and for fiscal year 1990-91
 38 the sum of fifty-one million thirty-three thousand dollars (\$51,033,000) for performance
 39 pay for State employees subject to the State Personnel Act.

40 (b1) There is appropriated from the Highway Fund to a Reserve in the Office
 41 of State Budget and Management for fiscal year 1989-90 the sum of five million eight
 42 hundred seventy thousand dollars (\$5,870,000) and for fiscal year 1990-91 the sum of
 43 eleven million eight hundred seventy thousand dollars (\$11,870,000) for performance
 44 pay for State employees subject to the State Personnel Act.

1 (c) There is appropriated from the General Fund to a Reserve in the Office of
2 State Budget and Management for fiscal year 1989-90 the sum of one hundred eighteen
3 million eight hundred forty-two thousand dollars (\$118,842,000) and for fiscal year
4 1990-91 the sum of two hundred twenty-six million four hundred twenty-four thousand
5 dollars (\$226,424,000) to provide the salary increase to State employees not subject to
6 the State Personnel Act.

7 —MOST STATE EMPLOYEES AND NON-TEACHING PUBLIC SCHOOL
8 EMPLOYEES/SALARY INCREASES

9 Sec. 8. (a) The salaries in effect for fiscal year 1988-89 for all permanent full-
10 time State employees who are subject to the State Personnel Act and who are paid from
11 the General Fund or the Highway Fund shall be increased, on and after July 1, 1989,
12 unless otherwise provided by this Part, by an average of four percent (4%), rounded to
13 conform to the steps in the salary ranges adopted by the State Personnel Commission. If
14 an employee's salary for fiscal year 1988-89 is not equal to a specific pay rate on the
15 1988-89 salary schedule, his salary increase, effective July 1, 1989, unless otherwise
16 provided by this Part, shall be four percent (4%) with the annual salary adjusted so as to
17 be divisible by 12.

18 (a1) The salaries in effect for fiscal year 1989-90 for all permanent full-time
19 State employees who are subject to the State Personnel Act and who are paid from the
20 General Fund or the Highway Fund shall be increased, on and after July 1, 1990, unless
21 otherwise provided by this Part, by an average of three percent (3%), rounded to
22 conform to the steps in the salary ranges adopted by the State Personnel Commission. If
23 an employee's salary for fiscal year 1989-90 is not equal to a specific pay rate on the
24 1989-90 salary schedule, his salary increase, effective July 1, 1990, unless otherwise
25 provided by this Part, shall be three percent (3%) with the annual salary adjusted so as
26 to be divisible by 12.

27 (b) Except as otherwise provided in this act, the fiscal year 1988-89 salaries
28 for permanent full-time State officials and persons in exempt positions that are
29 recommended by the Governor or the Governor and the Advisory Budget Commission
30 and set by the General Assembly shall be increased by an average of six percent (6%),
31 commencing July 1, 1989.

32 (b1) Except as otherwise provided in this act, the fiscal year 1989-90 salaries
33 for permanent full-time State officials and persons in exempt positions that are
34 recommended by the Governor or the Governor and the Advisory Budget Commission
35 and set by the General Assembly shall be increased by an average of five percent (5%),
36 commencing July 1, 1990.

37 (c) The salaries in effect for fiscal year 1988-89 for all permanent part-time
38 State employees shall be increased on and after July 1, 1989, by pro rata amounts of the
39 same percentage average salary increase provided if they were permanent full-time
40 employees covered by the provisions of this section.

41 (c1) The salaries in effect for fiscal year 1989-90 for all permanent part-time
42 State employees shall be increased on and after July 1, 1990, by pro rata amounts of the
43 same percentage average salary increase provided if they were permanent full-time
44 employees covered by the provisions of this section.

1 (d) The Director of the Budget may allocate out of special operating funds or
2 from other sources of the employing agency, except tax revenues, sufficient funds to
3 allow a salary increase, on and after July 1, 1989, and on and after July 1, 1990, in the
4 percentage provided by this Part, including funds for the employer's retirement and
5 Social Security contributions, for the permanent full-time and part-time employees of
6 the agency, provided the employing agency elects to make available the necessary
7 funds.

8 (e) Within regular Executive Budget Act procedures as limited by this act, all
9 State agencies and departments may increase on an equitable basis the rate of pay of
10 temporary and permanent hourly State employees, subject to availability of funds in the
11 particular agency or department, by pro rata amounts of the percentage average salary
12 increase provided for permanent full-time employees covered by the provisions of this
13 section, commencing July 1, 1989 and July 1, 1990.

14 (f) The salaries in effect for fiscal year 1988-89 for all permanent non-
15 teaching full-time public school employees supported by State funds and paid from the
16 State public school fund and from other special allocations to local public school units
17 shall be increased by an average of six percent (6%), rounded to conform to the steps in
18 the salary ranges adopted by the State Board of Education, commencing July 1, 1989.

19 The salaries in effect for fiscal year 1988-89 for all permanent part-time
20 public school employees supported by State funds and paid from the State public school
21 fund and from other special allocations to local public school units shall be increased by
22 pro rata amounts of the six percent (6%) average salary increase provided for permanent
23 full-time employees covered by the provisions of this subsection.

24 (f1) The salaries in effect for fiscal year 1989-90 for all permanent non-
25 teaching full-time public school employees supported by State funds and paid from the
26 State public school fund and from other special allocations to local public school units
27 shall be increased by an average of five percent (5%), rounded to conform to the steps
28 in the salary ranges adopted by the State Board of Education, commencing July 1, 1990.

29 The salaries in effect for fiscal year 1989-90 for all permanent part-time
30 public school employees supported by State funds and paid from the State public school
31 fund and from other special allocations to local public school units shall be increased by
32 pro rata amounts of the five percent (5%) average salary increase provided for
33 permanent full-time employees covered by the provisions of this subsection.

34 (g) The fiscal year 1988-89 pay rates adopted by local boards of education for
35 school bus drivers shall be increased by at least six percent (6%), on and after July 1,
36 1989, to the extent that such rates of pay are supported by the allocation of State funds
37 from the State Board of Education. Local boards of education shall increase the rates of
38 pay for all school bus drivers who were employed during fiscal year 1988-89 and who
39 continue their employment for fiscal year 1989-90 by at least six percent (6%) on and
40 after July 1, 1989.

41 (g1) The fiscal year 1989-90 pay rates adopted by local boards of education
42 for school bus drivers shall be increased by at least five percent (5%), on and after July
43 1, 1990, to the extent that such rates of pay are supported by the allocation of State
44 funds from the State Board of Education. Local boards of education shall increase the

1 rates of pay for all school bus drivers who were employed during fiscal year 1989-90
2 and who continue their employment for fiscal year 1990-91 by at least five percent (5%)
3 on and after July 1, 1990.

4 ---COMMUNITY COLLEGES PERSONNEL/SALARY INCREASES

5 Sec. 9. (a) The Director of the Budget may transfer from the salary increase
6 reserve fund created for fiscal year 1989-90 funds necessary to provide an average
7 annual salary increase of six percent (6%), including funds for the employer's retirement
8 and Social Security contributions, commencing July 1, 1989, for all permanent
9 community college institutional personnel supported by State funds. Subject to the
10 availability of funds, the salaries for temporary community college institutional
11 personnel may be increased by pro rata amounts of the six percent (6%) average annual
12 salary increase provided for permanent institutional employees. These funds may not
13 be used for any purpose other than for the salary increases and necessary employer
14 contributions.

15 (b) The Director of the Budget may transfer from the salary increase reserve
16 fund created for fiscal year 1990-91 funds necessary to provide an average annual salary
17 increase of five percent (5%), including funds for the employer's retirement and Social
18 Security contributions, commencing July 1, 1990, for all permanent community college
19 institutional personnel supported by State funds. Subject to the availability of funds, the
20 salaries for temporary community college institutional personnel may be increased by
21 pro rata amounts of the five percent (5%) average annual salary increase provided for
22 permanent institutional employees. These funds may not be used for any purpose other
23 than for the salary increases and necessary employer contributions.

24 ---HIGHER EDUCATION PERSONNEL/SALARY INCREASES

25 Sec. 10. (a) The Director of the Budget may transfer from the salary increase
26 reserve fund created for fiscal year 1989-90 funds necessary to provide an annual
27 average salary increase of six percent (6%), including funds for the employer's
28 retirement and Social Security contributions, commencing July 1, 1989, for all
29 employees of The University of North Carolina supported by State funds who are
30 exempt from the State Personnel Act. These funds shall be allocated to individuals
31 according to rules adopted by the Board of Governors and may not be used for any
32 purpose other than for the salary increases and necessary employer contributions.

33 (b) The Director of the Budget may transfer from the salary increase reserve
34 fund created for fiscal year 1990-91 funds necessary to provide an annual average salary
35 increase of five percent (5%), including funds for the employer's retirement and Social
36 Security contributions, commencing July 1, 1990, for all employees of The University
37 of North Carolina supported by State funds who are exempt from the State Personnel
38 Act. These funds shall be allocated to individuals according to rules adopted by the
39 Board of Governors and may not be used for any purpose other than for the salary
40 increases and necessary employer contributions.

41 ---GOVERNOR'S SALARY INCREASE

42 Sec. 11. (a) Effective July 1, 1989, G.S. 147-11(a) reads as rewritten:

1 "(a) The salary of the Governor shall be ~~one hundred nine thousand, seven~~
2 ~~hundred twenty eight dollars (\$109,728)~~ one hundred sixteen thousand three hundred
3 sixteen dollars (\$116,316) annually, payable monthly."

4 (b) Effective July 1, 1990, G.S. 147-11(a) as amended by subsection (a) of
5 this section reads as rewritten:

6 "(a) The salary of the Governor shall be ~~one hundred sixteen thousand three~~
7 ~~hundred sixteen dollars (\$116,316)~~ one hundred twenty-two thousand one hundred
8 thirty-six dollars (\$122,136) annually, payable monthly."

9 —COUNCIL OF STATE/SALARY INCREASE

10 Sec. 12. The annual salaries for members of the Council of State, payable
11 monthly, for the following fiscal years are:

12 Council of State	1989-90	1990-91
13 Lieutenant Governor	\$ 70,992	\$74,544
14 Attorney General	70,992	74,544
15 Secretary of State	70,992	74,544
16 State Treasurer	70,992	74,544
17 State Auditor	70,992	74,544
18 Superintendent of Public Instruction	70,992	74,544
19 Agriculture Commissioner	70,992	74,544
20 Insurance Commissioner	70,992	74,544
21 Labor Commissioner	70,992	74,544.

22 —NONELECTED DEPARTMENT HEAD/SALARY INCREASES

23 Sec. 13. In accordance with G.S. 143B-9, the maximum annual salaries,
24 payable monthly, for the nonelected heads of the principal State departments for the
25 following fiscal years are:

26 Nonelected Department Heads	Annual Salary	
27 Secretary of Administration	\$ 70,992	\$74,544
28 Secretary of Commerce	70,992	74,544
29 Secretary of Correction	70,992	74,544
30 Secretary of Crime Control and		
31 Public Safety	70,992	74,544
32 Secretary of Cultural Resources	70,992	74,544
33 Secretary of Human Resources	70,992	74,544
34 Secretary of Natural Resources		
35 and Community Development	70,992	74,544
36 Secretary of Revenue	70,992	74,544
37 Secretary of Transportation	70,992	74,544.

38 —LEGISLATORS/SALARY AND EXPENSE INCREASES

39 Sec. 14. Effective upon convening of the 1991 Regular Session of the General
40 Assembly, G.S. 120-3 reads as rewritten:

41 "**§ 120-3. Pay of members and officers of the General Assembly.**

42 (a) The Speaker of the House shall be paid an annual salary of ~~thirty one~~
43 ~~thousand two hundred twenty four dollars (\$31,224)~~ thirty-four thousand seven hundred
44 sixty-four dollars (\$34,764), payable monthly, and an expense allowance of one

1 thousand one hundred seventy-five dollars (\$1,175) per month. The President Pro
2 Tempore of the Senate shall be paid an annual salary of ~~nineteen thousand one hundred~~
3 ~~four dollars (\$19,104)~~twenty-one thousand two hundred sixty-four dollars (\$21,264),
4 payable monthly, and an expense allowance of eight hundred thirty-three dollars
5 (\$833.00) per month. The Speaker Pro Tempore of the House shall be paid an annual
6 salary of ~~seventeen thousand five hundred ninety-two dollars (\$17,592)~~nineteen
7 thousand five hundred eighty-four dollars (\$19,584), payable monthly, and an expense
8 allowance of six hundred ninety-four dollars (\$694.00) per month; and the Deputy
9 President Pro Tempore of the Senate shall be paid an annual salary of ~~sixteen thousand~~
10 ~~eighty dollars (\$16,080)~~seventeen thousand nine hundred four dollars (\$17,904),
11 payable monthly, and an expense allowance of five hundred fifty-four dollars (\$554.00)
12 per month. The majority and minority leader-leaders in the House and the majority and
13 minority leaders in the Senate shall be paid an annual salary of ~~thirteen thousand six~~
14 ~~hundred eighty-eight dollars (\$13,688)~~fifteen thousand two hundred forty dollars
15 (\$15,240), payable monthly, and an expense allowance of five hundred fifty-four dollars
16 (\$554.00) per month.

17 (b) Every other member of the General Assembly shall receive increases in
18 annual salary only to the extent of and in the amounts equal to the average increases
19 received by employees of the State, effective upon convening of the next Regular
20 Session of the General Assembly after enactment of these increased amounts.
21 Accordingly, upon convening of the 1991 Regular Session of the General Assembly,
22 every other member of the General Assembly shall be paid an annual salary of ~~eleven~~
23 ~~thousand one hundred twenty-four dollars (\$11,124)~~twelve thousand three hundred
24 eighty-four dollars (\$12,384), payable monthly, and an expense allowance of four
25 hundred sixty-five dollars (\$465.00) per month.

26 (c) The salary and expense allowances provided in this section are in addition to
27 any per diem compensation and any subsistence and travel allowance authorized by any
28 other law with respect to any regular or extra session of the General Assembly, and
29 service on any State board, agency, commission, standing committee and study
30 commission."

31 —GENERAL ASSEMBLY PRINCIPAL CLERKS/SALARY INCREASES

32 Sec. 15. G.S. 120-37(c) reads as rewritten:

33 "(c) The principal clerks shall be full-time officers. Each principal clerk shall be
34 entitled to other benefits available to permanent legislative employees and shall be paid
35 an annual salary of ~~forty-one thousand seventy-six dollars (\$41,076)~~forty-three
36 thousand five hundred forty-eight dollars (\$43,548) from July 1, 1989 through June 30,
37 1990, and an annual salary of forty-five thousand seven hundred twenty dollars
38 (\$45,720) on and after July 1, 1990, payable monthly. The Legislative Services
39 Commission shall review the salary of the principal clerks prior to submission of the
40 proposed operating budget of the General Assembly to the Governor and Advisory
41 Budget Commission and shall make appropriate recommendations for changes in those
42 salaries. Any changes enacted by the General Assembly shall be by amendment to this
43 paragraph."

44 —SERGEANT-AT-ARMS AND READING CLERKS/SALARY INCREASES

1 Sec. 16. G.S. 120-37(b) reads as rewritten:

2 "(b) The sergeant-at-arms and the reading clerk in each house shall be paid a
3 salary of ~~one hundred eighty five dollars (\$185.00)~~ one hundred ninety-seven dollars
4 (\$197.00) per week from July 1, 1989 through June 30, 1990, and two hundred seven
5 dollars (\$207.00) per week on and after July 1, 1990, plus subsistence at the same daily
6 rate provided for members of the General Assembly, plus mileage at the rate provided
7 for members of the General Assembly for one round trip only from their homes to
8 Raleigh and return. The sergeants-at-arms shall serve during sessions of the General
9 Assembly and at such time prior to the convening of, and subsequent to adjournment or
10 recess of, sessions as may be authorized by the Legislative Services Commission. The
11 reading clerks shall serve during sessions only."

12 —LEGISLATIVE EMPLOYEES/SALARY INCREASES

13 Sec. 17. (a) The Legislative Administrative Officer may increase the salaries
14 of nonelected employees of the General Assembly in effect for fiscal year 1988-89 by
15 an amount equal to six percent (6%), rounded to conform to the steps in the salary
16 ranges adopted by the Legislative Services Commission, commencing July 1, 1989.
17 Nothing in this Part limits any of the provisions of G.S. 120-32.

18 (b) The Legislative Administrative Officer may increase the salaries of
19 nonelected employees of the General Assembly in effect for fiscal year 1989-90 by an
20 amount equal to five percent (5%), rounded to conform to the steps in the salary ranges
21 adopted by the Legislative Services Commission, commencing July 1, 1990. Nothing in
22 this Part limits any of the provisions of G.S. 120-32.

23 —JUDICIAL BRANCH OFFICIALS/SALARY INCREASE

24 Sec. 18. (a) The annual salaries, payable monthly, for specified judicial branch
25 officials for following fiscal years are:

Judicial Branch Officials	1989-90	1990-91
27 Chief Justice, Supreme Court	\$ 86,232	\$90,540
28 Associate Justice, Supreme Court	84,456	88,680
29 Chief Judge, Court of Appeals	81,756	85,848
30 Judge, Court of Appeals	79,968	83,964
31 Judge, Senior Regular Resident		
32 Superior Court	73,332	77,004
33 Judge, Superior Court	70,992	74,544
34 Chief Judge, District Court	62,628	65,760
35 Judge, District Court	60,240	63,252
36 District Attorney	66,060	69,360
37 Assistant District Attorney - an		
38 average of	42,732	44,868
39 Administrative Officer of the Courts	73,332	77,004
40 Assistant Administrative Officer		
41 of the Courts	59,772	62,760
42 Public Defender	66,060	69,360
43 Assistant Public Defender - an		
44 average of	42,732	44,868

1 If an acting senior regular resident superior court judge is appointed under the
 2 provisions of G.S. 7A-41, he shall receive the salary for Judge, Senior Regular Resident,
 3 Superior Court, until his temporary appointment is vacated, and the judge he replaces
 4 shall receive the salary indicated for Judge, Superior Court.

5 The district attorney or public defender of a judicial district, with the approval
 6 of the Administrative Officer of the Courts, shall set the salaries of assistant district
 7 attorneys or assistant public defenders, respectively, in that district such that the average
 8 salaries of assistant district attorneys or assistant public defenders in that district do not
 9 exceed forty-two thousand seven hundred thirty-two dollars (\$42,732) effective July 1,
 10 1989, and forty-four thousand eight hundred sixty-eight dollars (\$44,868) effective July
 11 1, 1990, and the minimum salary of any assistant district attorney or assistant public
 12 defender is at least twenty-one thousand five hundred seventy-six dollars (\$21,576)
 13 effective July 1, 1989, and twenty-two thousand six hundred fifty-six dollars (\$22,656)
 14 effective July 1, 1990.

15 (b) The salaries in effect for fiscal year 1988-89 for permanent employees of
 16 the Judicial Department, except for those whose salaries are itemized in this Part, shall
 17 be increased by an amount, commencing July 1, 1989, equal to six percent (6%),
 18 rounded to conform to the steps in the salary ranges adopted by the Judicial Department.

19 (c) The salaries in effect for fiscal year 1989-90 for permanent employees of
 20 the Judicial Department, except for those whose salaries are itemized in this Part, shall
 21 be increased by an amount, commencing July 1, 1990, equal to five percent (5%),
 22 rounded to conform to the steps in the salary ranges adopted by the Judicial Department.

23 ---CLERKS OF COURT/SALARY INCREASE

24 Sec. 19. G.S. 7A-101(a) reads as rewritten:

25 "(a)The clerk of superior court is a full-time employee of the State and shall receive
 26 an annual salary, payable in equal monthly installments, based on the population of the
 27 county, as determined by the population projections of the Office of State Budget and
 28 Management for the year preceding the first year of each biennial budget, according to
 29 the following schedule:

Population	Annual Salary	
	<u>1989-90</u>	<u>1990-91</u>
Less than 30,000\$	<u>36,288</u>	<u>38,472</u>
<u>40,392</u>		
30,000 to 99,999	<u>41,748</u>	<u>44,256</u>
100,000 to 199,999	<u>47,184</u>	<u>50,016</u>
200,000 and above	<u>53,832</u>	<u>57,072</u>

37
 38 When a county changes from one population group to another, the salary of the clerk
 39 shall be changed to the salary appropriate for the new population group on July 1 of the
 40 first year of each biennial budget, except that the salary of an incumbent clerk shall not
 41 be decreased by any change in population group during his continuance in office."

42 ---ASSISTANT AND DEPUTY CLERKS OF COURT/SALARY INCREASE

43 Sec. 20. G.S. 7A-102(c) reads as rewritten:

"(c) Notwithstanding the provisions of subsection (a), the Administrative Officer of the Courts shall establish an incremental salary plan for assistant clerks and for deputy clerks based on a series of salary steps corresponding to the steps contained in the Salary Plan for State Employees adopted by the Office of State Personnel, subject to a minimum and a maximum annual salary as set forth below. On and after July 1, 1985, each assistant clerk and each deputy clerk shall be eligible for an annual step increase in his salary plan based on satisfactory job performance as determined by each clerk. Notwithstanding the foregoing, if an assistant or deputy clerk's years of service in the office of superior court clerk would warrant an annual salary greater than the salary first established under this section, that assistant or deputy clerk shall be eligible on and after July 1, 1984, for an annual step increase in his salary plan. Furthermore, on and after July 1, 1985, that assistant or deputy clerk shall be eligible for an increase of two steps in his salary plan, and shall remain eligible for a two-step increase each year as recommended by each clerk until that assistant or deputy clerk's annual salary corresponds to his number of years of service. A full-time assistant clerk or a full-time deputy clerk shall be paid an annual salary subject to the following minimum and maximum rates:

Assistant Clerks	Annual Salary	
	<u>1989-90</u>	<u>1990-91</u>
Minimum \$ 18,420 <u>19,536</u> <u>20,508</u>		
Maximum 30,912 <u>32,772</u> <u>34,416</u>		

Deputy Clerks	Annual Salary	
	<u>1989-90</u>	<u>1990-91</u>
Minimum \$ 14,436 <u>15,312</u> <u>16,080</u>		
Maximum 23,700 <u>25,128</u> <u>26,388</u> "		

—MAGISTRATES/SALARY INCREASE

Sec. 21. G.S. 7A-171.1(a)(1) reads as rewritten:

"(1) A full-time magistrate, so designated by the Administrative Officer of the Courts, shall be paid the annual salary indicated in the table below according to the number of years he has served as a magistrate. The salary steps shall take effect on the anniversary of the date the magistrate was originally appointed:

TABLE OF SALARIES OF FULL-TIME MAGISTRATES

Number of Prior Years of Service	Annual Salary	
	<u>1989-90</u>	<u>1990-91</u>
Less than 1	\$ 14,712 <u>15,600</u>	<u>16,380</u>
1 or more but less than 3	15,480 <u>16,416</u>	<u>17,232</u>
3 or more but less than 5	17,052 <u>18,084</u>	<u>18,984</u>
5 or more but less than 7	18,792 <u>19,920</u>	<u>20,916</u>
7 or more but less than 9	20,724 <u>21,972</u>	<u>23,076</u>
9 or more but less than 11	22,824 <u>24,204</u>	<u>25,416</u>
11 or more	25,116 <u>26,628</u>	<u>27,960</u>

1 A 'Full-time magistrate' is a magistrate who is assigned to work an average of not
2 less than 40 hours a week during his term of office.

3 Notwithstanding any other provision of this subdivision, a full-time magistrate, who
4 was serving as a magistrate on December 31, 1978, and who was receiving an annual
5 salary in excess of that which would ordinarily be allowed under the provisions of this
6 subdivision, shall not have the salary, which he was receiving reduced during any
7 subsequent term as a full-time magistrate. That magistrate's salary shall be fixed at the
8 salary level from the table above which is nearest and higher than the latest annual
9 salary he was receiving on December 31, 1978, and, thereafter, shall advance in
10 accordance with the schedule in the table above."

11 —CERTAIN EXECUTIVE BRANCH OFFICIALS/SALARY INCREASES

12 Sec. 22. (a) The annual salaries, payable monthly, for the following fiscal
13 years for the following executive branch officials are:

Executive Branch Officials	Annual Salary	
1989-90	1990-91	
16 Chairman, Alcoholic Beverage Control		
17 Commission	\$ 68,304	71,724
18 Commissioner of Motor Vehicles	68,304	71,724
19 Commissioner of Banks	68,304	71,724
20 Deputy Banking Commissioner	58,716	61,656
21 Chairman, Employment Security Commission	68,304	71,724
22 State Personnel Director	70,992	74,544
23 Chairman, Parole Commission	62,328	65,448
24 Members of the Parole Commission	57,504	60,384
25 Chairman, Industrial Commission	61,320	64,392
26 Members of the Industrial Commission	59,808	62,796
27 Executive Director, Agency for Public		
28 Telecommunications	57,504	60,384
29 Director, Seafood Industrial Park		
30 Authority	38,040	39,948
31 General Manager, Ports Railway		
32 Commission	51,876	54,468
33 Director, Museum of Art	70,008	73,512
34 Director, State Ports Authority	79,392	83,364
35 Executive Director, Wildlife Resources		
36 Commission	58,884	61,824
37 Executive Director, North Carolina		
38 Housing Finance Agency	84,648	88,884
39 Executive Director, North Carolina		
40 Technological Development Authority	45,156	47,412
41 Executive Director, North Carolina		
42 Agricultural Finance Authority	66,468	69,792
43 Director, Office of Administrative		
44 Hearings	60,240	63,252

1 (b) Any person carrying on the functions of a position listed in subsection (a)
2 of this section shall be paid only the salary set out in that subsection, and the mere
3 classification of the position to be some other position does not allow the salary of that
4 position to be set in some other manner.

5 —ALL STATE-SUPPORTED PERSONNEL/SALARY INCREASES

6 Sec. 23. (a) Salaries for positions that are funded partially from the General
7 Fund or Highway Fund and partially from sources other than the General Fund or
8 Highway Fund shall be increased from the General Fund or Highway Fund
9 appropriation only to the extent of the proportionate part of the salaries paid from the
10 General Fund or Highway Fund.

11 (b) The salary range maximums for all employees shall be increased to
12 accommodate the across-the-board salary increase provided by this Part so that every
13 employee will continue to have the same relative position with respect to salary
14 increases and future increments as he would have had if these salary increases had not
15 been made.

16 (c) The salary increases provided in this Part to be effective July 1, 1989, do not
17 apply to persons separated from State service due to resignation, dismissal, reduction in
18 force, death, or retirement, whose last workday is prior to July 1, 1989.

19 (d) Notwithstanding the provisions of Section 19.1 of Chapter 1137 of the 1979
20 Session Laws as amended by Chapter 1053 of the 1981 Session Laws, G.S. 115C-
21 12(9)a., 115C-12(16), 126-7, or any other provision of law, no employee or officer of
22 the public school system shall receive an automatic increment during the 1989-90 fiscal
23 year, except as otherwise permitted by this act.

24 (e) The Director of the Budget shall transfer from the salary increase reserve
25 funds for fiscal year 1989-90 all funds necessary for the salary increases provided by
26 this Part, including funds for the employer's retirement and Social Security
27 contributions.

28 (f) Nothing in this Part authorizes the transfer of funds from the General
29 Fund to the Highway Fund for salary increases.

30 **PART IV.**

31 **SALES TAX CHANGES.**

32 Sec. 24. G.S. 105-164.3 is amended by adding a new subdivision after
33 subdivision (5) to read:

34 "(5a) The term 'food for human consumption' means food purchased for
35 preparation or consumption off the premises of the seller. The term
36 includes the following:

37 a. Food products packaged by the manufacturer thereof in the
38 usual and customary container used for the particular type of
39 food product and delivered intact in the container by the retailer
40 to the purchaser for consumption off the premises of the
41 retailer.

42 b. Basic food items such as fruit, vegetables, meat, dairy and
43 poultry products, cereals, and bread and other bakery products;

1 and other food and food products to be used in the home except
2 those excluded in this subsection.

3 c. Prepared meals or foods sold by grocery stores, supermarkets,
4 or any other similar business unless the business provides
5 facilities for the customers to consume the meals or foods on
6 the premises, in which case such meals or foods sold for
7 consumption on the premises are taxable.

8 d. Prepared meals served in a boarding house, if the meals are
9 served only to permanent roomers of the boarding house and
10 the charge for the meals is included in the weekly or monthly
11 charge for the room of each boarder.

12 e. Coffee and other foods that are sold either through vending
13 machines located at places that have no facilities for serving
14 prepared meals or foods or at filling stations, service stations,
15 garages, or other similar businesses that have no facilities for
16 serving prepared meals or foods.

17 The term does not include:

18 a. Alcoholic beverages as defined in G.S. 105-113.68, dry or
19 liquid cocktail mixes, and soft drinks, soft drink powders, and
20 syrops subject to the soft drink tax under Article 2B of Chapter
21 105.

22 b. Candy and other confectionaries, chewing gum, popped corn
23 wherever sold, and all preparations sold as dietary supplements.

24 c. Prepared meals or foods sold and served on or off the premises
25 by restaurants, cafes, cafeterias, delicatessens, drug stores,
26 concession stands, 'fast-food' businesses that sell prepared
27 meals or foods on a 'take-out' basis, and any other establishment
28 or enterprise, mobile or otherwise, that maintains facilities,
29 equipment, services, or inventory for the sale of meals, snacks,
30 sandwiches, and other prepared food to customers. Prepared
31 meals furnished to employees in any of these places as part of
32 their compensation are not taxable."

33 Sec. 25. G.S. 105-164.4 reads as rewritten:

34 **"§ 105-164.4. Imposition of tax; retailer.**

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

- 41 (1) At the rate of ~~three percent (3%)~~ four percent (4%) of the sales price of
42 each item or article of tangible property when sold at retail in this
43 State, the tax to be computed on total net taxable sales as defined
44 herein but for the purpose of computing the amount due the State each

1 and every taxable retail sale, or retail sales upon which the tax has
2 been collected, or the amount of tax actually collected, whichever be
3 greater and whether or not erroneously collected, shall be included in
4 the computation of tax due the State. Provided, however, that in the
5 case of the sale of any aircraft, railway locomotive, railway car or the
6 sale of any motor vehicle or boat, the tax shall be only at the rate of
7 two percent (2%) of the sales price, but at no time shall the maximum
8 tax with respect to any one such aircraft, railway locomotive, railway
9 car or motor vehicle or boat, including all accessories attached thereto
10 at the time of delivery thereof to the purchaser, be in excess of three
11 hundred dollars (\$300.00).

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

19 Notwithstanding G.S. 105-164.3(16) and regardless whether the
20 seller is a retailer of motor vehicles, the sales price of a motor vehicle
21 is the gross sales price of the motor vehicle less any allowance given
22 for a motor vehicle taken in trade as part of the consideration for the
23 purchased motor vehicle.

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

39 When applying for a certificate of title, a purchaser of a motor
40 vehicle from a seller who is not a retailer shall certify in writing the
41 sales price of the purchased motor vehicle. A purchaser who
42 knowingly makes a false certification of the sales price is guilty of a
43 misdemeanor.

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

6 Persons who lease or rent motor vehicles shall collect and remit the
7 tax imposed by this Article on the separate retail sale of a motor
8 vehicle in addition to the tax imposed on the proceeds from the lease
9 or rental of the motor vehicle.

10 Provided further, the tax shall be only at the rate of one percent
11 (1%) of the sales price on the following items:

- 12 a1. Food for human consumption, as defined in G.S. 105-164, but
13 not including food otherwise exempt from tax as provided in
14 this Article.
- 15 a2. Medicines intended for internal or external use in the cure,
16 mitigation, treatment, or prevention of disease in human beings,
17 but not including medicines otherwise exempt from tax as
18 provided in this Article, or cosmetics or toilet articles
19 notwithstanding the presence of medicinal ingredients.
- 20 ~~a3.~~ Horses or mules by whomsoever sold.
- 21 b. Semen to be used in the artificial insemination of animals.
- 22 c. Sales of fuel, other than electricity or piped natural gas, to
23 farmers to be used by them for any farm purposes other than
24 preparing food, heating dwellings and other household
25 purposes. The quantity of fuel purchased or used at any one
26 time shall not in any manner be a determinative factor as to
27 whether any sale or use of fuel is or is not subject to the one
28 percent (1%) rate of tax imposed herein.
- 29 d. Sales of fuel, other than electricity or piped natural gas, to
30 manufacturing industries and manufacturing plants for use in
31 connection with the operation of such industries and plants other than
32 sales of fuels to be used for residential heating purposes. The quantity
33 of fuel purchased or used at any one time shall not in any manner be a
34 determinative factor as to whether any sale or use of fuel is or is not
35 subject to the one percent (1%) rate of tax imposed herein.
- 36 e. Sales of fuel, other than electricity or piped natural gas, to
37 commercial laundries or to pressing and dry-cleaning establishments
38 for use in machinery used in the direct performance of the laundering
39 or the pressing and cleaning service.
- 40 f. Sales to freezer locker plants of wrapping paper, cartons and
41 supplies consumed directly in the operation of such plant.

42 Provided further, the tax shall be only at the rate of one
43 percent (1%) of the sales price, subject to a maximum tax of
44 eighty dollars (\$80.00) per article, on the following items:

1 g. Sales of machines and machinery, whether animal or motor drawn
2 or operated, and parts and accessories for such machines and
3 machinery to farmers for use by them in the planting, cultivating,
4 harvesting or curing of farm crops, and sales of machines and
5 machinery and parts and accessories for such machines and machinery
6 to dairy operators, poultry farmers, egg producers, and livestock
7 farmers for use by them in the production of dairy products, poultry,
8 eggs or livestock, except such machines, machinery, equipment, parts,
9 and accessories that come within the provisions of G.S. 105-
10 164.13(4c).

11 The term 'machines and machinery' as used in this
12 subdivision is defined as follows:

13 The term shall include all vehicular implements, designed
14 and sold for any use defined in this subdivision, which are
15 operated, drawn or propelled by motor or animal power, but
16 shall not include vehicular implements which are operated
17 wholly by hand, and shall not include any motor vehicles
18 required to be registered under Chapter 20 of the General
19 Statutes.

20 The term shall include all nonvehicular implements and
21 mechanical devices designed and sold for any use defined in
22 this subdivision, which have moving parts, or which require the
23 use of any motor or animal power, fuel, or electricity in their
24 operation but shall not include nonvehicular implements which
25 have no moving parts and are operated wholly by hand.

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

29 h. Sales of mill machinery or mill machinery parts and accessories to
30 manufacturing industries and plants, and sales to contractors and
31 subcontractors purchasing mill machinery or mill machinery parts and
32 accessories for use by them in the performance of contracts with
33 manufacturing industries and plants, and sales to subcontractors
34 purchasing mill machinery or mill machinery parts and accessories for
35 use by them in the performance of contracts with general contractors
36 who have contracts with manufacturing industries and plants. As used
37 in this paragraph, the term "manufacturing industries and plants" does
38 not include delicatessens, cafes, cafeterias, restaurants, and other
39 similar retailers that are principally engaged in the retail sale of foods
40 prepared by them for consumption on or off their premises.

41 i. Sales of central office equipment and switchboard and private
42 branch exchange equipment to telephone companies regularly engaged
43 in providing telephone service to subscribers on a commercial basis,

1 and sales to these companies of prewritten computer programs used in
2 providing telephone service to their subscribers.

3 j. Sales to commercial laundries or to pressing and dry cleaning
4 establishments of machinery used in the direct performance of the
5 laundering or the pressing and cleaning service and of parts and
6 accessories thereto.

7 k. Sales to freezer locker plants of machinery used in
8 the direct operation of said freezer locker plant and of parts
9 and accessories thereto.

10 l. Sales of broadcasting equipment and parts and accessories thereto
11 and towers to commercial radio and television companies which are
12 under the regulation and supervision of the Federal Communications
13 Commission.

14 m. Sales to farmers of bulk tobacco barns and racks and all parts and
15 accessories thereto and similar apparatus used for the curing and
16 drying of any farm produce.

17 n. Repealed by Session Laws 1987, c. 800, s. 2.

18 o. Sales to farmers of grain, feed or soybean storage
19 facilities and accessories thereto, whether or not dryers are
20 attached, and all similar apparatus and accessories thereto for
21 the storage of grain, feed or soybeans.

22 p. Repealed by Session Laws 1983, c. 805, s. 2,
23 effective July 1, 1983.

24 q. Sales of containers to farmers or producers for use in
25 the planting, producing, harvesting, curing, marketing,
26 packaging, sale, or transporting or delivery of their products
27 when such containers do not go with and become part of the
28 sale of their products at wholesale or retail.

29 (2) At the rate of ~~three percent (3%)~~ four percent (4%) of the gross
30 proceeds derived from the lease or rental of tangible personal property
31 as defined herein, where the lease or rental of such property is an
32 established business, or the same is incidental or germane to said
33 business; except that whenever a rate of less than ~~three percent (3%)~~
34 four percent (4%) is applicable to a sale of property which is leased or
35 rented, the lower rate of tax shall be due on such lease or rental
36 proceeds.

37 (3) Operators of hotels, motels, tourist homes, tourist camps, and similar
38 type businesses and persons who rent private residences and cottages
39 to transients are considered retailers under this Article. There is levied
40 upon every such retailer a tax of ~~three percent (3%)~~ four percent (4%)
41 of the gross receipts derived from the rental of any room or rooms,
42 lodgings, or accommodations furnished to transients for a
43 consideration. This tax does not apply to any private residence or
44 cottage that is rented for less than 15 days in a calendar year or to any

1 room, lodging, or accommodation supplied to the same person for a
2 period of 90 or more continuous days.

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

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

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

42 (4b) A person who sells tangible personal property at a flea market, other
43 than his own household personal property, is considered a retailer
44 under this Article. A tax is levied on that person at the rate of ~~three~~

1 ~~percent (3%)~~ four percent (4%) of the sales price of each article sold
2 by him at the flea market. A person who leases or rents space at a flea
3 market may not lease or rent this space unless the retailer requesting to
4 rent or lease the space furnishes evidence that he has obtained the
5 license required by this Article. A person who leases or rents space at
6 a flea market shall keep records of retailers to whom he has leased or
7 rented space at the market. As used in this subdivision, the term 'flea
8 market' means a place where space is rented to a person for the
9 purpose of selling tangible personal property.

10 (4c) At the rate of ~~six and one-half percent (6 1/2%)~~ seven and one-half
11 percent (7 1/2%) of the gross receipts derived from providing toll
12 telecommunications services or private telecommunications services as
13 defined by G.S. 105-120(a) that both originate from and terminate in
14 the State which are not subject to the privilege tax under G.S. 105-120.
15 Any business entity that provides the service outlined above is
16 considered a retailer under this Article. This subdivision shall not
17 apply to telephone membership corporations as described in Chapter
18 117 of the General Statutes.

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

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

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

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

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

12 Sec. 26. 105-164.6(1), (2), and (3) read as rewritten:

- 13 "(1) At the rate of ~~three percent (3%)~~ four percent (4%) of the cost price of
14 each item or article of tangible personal property when the same is not
15 sold but used, consumed, distributed or stored for use or consumption
16 in this State; except that, whenever a rate of less than ~~three percent~~
17 ~~(3%)~~ four percent (4%) is applicable under the sales tax schedule set
18 out in G.S. 105-164.4 to the sale at retail of an item or article of
19 tangible personal property, the same rate, and maximum tax if any,
20 shall be used in computing any use tax due under this subdivision.
21 The separate sale of a new motor vehicle chassis and a new motor
22 vehicle body to be installed thereon, whether by the same retailer or by
23 different retailers, shall be subject only to the tax herein prescribed
24 with respect to a single motor vehicle.
- 25 (2) At the rate of ~~three percent (3%)~~ four percent (4%) of the monthly
26 lease or rental price paid by the lessee or rentee, or contracted or
27 agreed to be paid by the lessee or rentee, to the owner of the tangible
28 personal property; except that, whenever a rate of less than ~~three~~
29 ~~percent (3%)~~ four percent (4%) is applicable under the sales tax
30 schedule set out in G.S. 105-164.4 to the sale at retail of an item or
31 article of tangible personal property, then the same rate, and maximum
32 tax if any, shall be used in computing any use tax due under this
33 subdivision.
- 34 (3) There is hereby levied and there shall be collected from every person,
35 firm, or corporation, an excise tax of ~~three percent (3%)~~ four percent
36 (4%) of the purchase price of all tangible personal property purchased
37 or used which shall enter into or become a part of any building or other
38 kind of structure in this State, including all materials, supplies, fixtures
39 and equipment of every kind and description which shall be annexed
40 thereto or in any manner become a part thereof. Said tax shall be
41 levied against the purchaser of such property. Provided, that where the
42 purchaser is a contractor, the contractor and owner shall be jointly and
43 severally liable for said tax, but the liability of the owner shall be
44 deemed satisfied if before final settlement between them the contractor

1 furnishes to the owner an affidavit certifying that said tax has been
2 paid. Provided further, that where the purchaser is a subcontractor, the
3 contractor and subcontractor shall be jointly and severally liable for
4 said tax, but the liability of the contractor shall be deemed satisfied if
5 before final settlement between them the subcontractor furnishes to the
6 contractor an affidavit certifying that said tax has been paid."

7 Sec. 27. G.S. 105-164.10 reads as rewritten:

8 **"§ 105-164.10. Retail bracket system.**

9 For the convenience of the retailer in collecting the tax due at the rate of ~~three~~
10 ~~percent (3%)~~ four percent (4%) and to facilitate the administration of this Article, every
11 retailer engaged in or continuing within this State in a business for which a license,
12 privilege or excise tax is required by this Article shall add to the sale price and collect
13 from the purchaser on all taxable retail sales an amount equal to the following:

- 14 ~~(1) No amount on sales of less than 10¢.~~
15 ~~(2) 1¢ on sales of 10¢ and over but not in excess of 35¢.~~
16 ~~(3) 2¢ on sales of 36¢ and over but not in excess of 70¢.~~
17 ~~(4) 3¢ on sales of 71¢ and over but not in excess of \$1.16.~~
18 ~~(5) Sales over \$1.16—straight 3% with major fractions~~

19 ~~governing.~~

- 20 (1) No amount on sales of less than 10¢;
21 (2) 1¢ on sales of 10¢ through 29¢;
22 (3) 2¢ on sales of 30¢ through 59¢;
23 (4) 3¢ on sales of 60¢ through 84¢;
24 (5) 4¢ on sales of 85¢ through \$1.12; and
25 (6) Sales of over \$1.12—straight four percent (4%) with
26 major fractions governing.

27 Use of the above bracket does not relieve the retailer from the duty and liability to
28 remit to the Secretary an amount equal to ~~three percent (3%)~~ four percent (4%) of the
29 gross receipts derived from all taxable retail sales subject to the ~~three percent (3%)~~ four
30 percent (4%) rate during the taxable period.

31 Whenever a sales or use tax is due at a rate of less than ~~three percent (3%)~~ four
32 percent (4%), the tax shall be computed by multiplying the sales or purchase price by
33 the applicable rate and by rounding the result off to the nearest whole cent. The use of
34 this method in computing the sales or use tax shall not relieve a taxpayer from the duty
35 and liability of remitting to the Secretary an amount equal to the applicable rates times
36 gross receipts subject to taxation at the lesser rates."

37 Sec. 28. G.S. 105-164.13 (18) reads as rewritten:

38 "(18) Funeral expenses, including coffins and caskets, not to exceed one
39 thousand five hundred dollars (\$1,500). All other funeral expenses,
40 including gross receipts for services rendered, shall be taxable at the
41 rate of ~~three percent (3%)~~ four percent (4%). However, 'services
42 rendered' shall not include those services which have been taxed
43 pursuant to G.S. 105-164.4(4), or ~~to~~ those services performed by any
44 beautician, cosmetologist, hairdresser or barber employed by or at the

1 specific direction of the family or personal representative of a
2 deceased; and 'funeral expenses' and 'services rendered' shall not
3 include death certificates procured by or at the specific direction of the
4 family or personal representative of a deceased. Where coffins,
5 caskets or vaults are purchased direct and a separate charge is paid for
6 services, the provisions of this subdivision shall apply to the total for
7 both."

8 Sec. 29. Effective July 1, 1990, G.S. 105-164.16(c) reads as rewritten:

9 "(c) Sales Tax on Utility Services. – Taxes levied under G.S. 105-164.4(a) and G.S.
10 105-164.4(c) are due and payable ~~quarterly~~monthly on or before the 30th day
11 following the end of the calendar ~~quarter~~month in which the tax accrues."

12 Sec. 30. G.S. 105-465 reads as rewritten:

13 **"§ 105-465. County election as to adoption of local sales and use tax.**

14 The board of elections of any county, upon the written request of the board of county
15 commissioners thereof, or upon receipt of a petition signed by qualified voters of the
16 county equal in number to at least fifteen percent (15%) of the total number of votes
17 cast in the county, at the last preceding election for the office of Governor, shall call a
18 special election for the purpose of submitting to the voters of the county the question of
19 whether a one percent (1%) sales and use tax as hereinafter provided will be levied.

20 The special election shall be held under the same rules and regulations applicable to
21 the election of members of the General Assembly. No new registration of voters shall
22 be required. All qualified voters in the county who are properly registered not later than
23 21 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote
24 at said election. The county board of elections shall give at least 20 days' public notice
25 prior to the closing of the registration books for the special election.

26 The county board of election shall prepare ballots for the special election which shall
27 contain the words, "FOR the one percent (1%) local sales and use tax only on those
28 items presently covered by the ~~three percent (3%)~~four percent (4%) sales and use
29 ~~tax,~~tax and on food and medicine covered by the one percent (1%) State sales and use
30 tax."and the words, "AGAINST the one percent (1%) local sales and use tax only on
31 those items presently covered by the ~~three percent (3%)~~four percent (4%) sales and use
32 ~~tax,~~tax and on food and medicine covered by the one percent (1%) State sales and use
33 tax."with appropriate squares so that each voter may designate his vote by his cross (X)
34 mark.

35 The county board of elections shall fix the date of the special election; provided,
36 however, that the special election shall not be held on the date of any biennial election
37 for county officers, nor within 60 days thereof, nor within one year from the date of the
38 last preceding special election under this section."

39 Sec. 31. G.S. 105-467 reads as rewritten:

40 **"§ 105-467. Sales tax imposed; limited to items on which the State now imposes a**
41 **~~three percent~~four percent sales tax.**

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

- 1 (1) The sales price of those articles of tangible personal property now
2 subject to the ~~three percent (3%)~~ four percent (4%) sales tax imposed
3 by the State under G.S. 105-164.4(1);
- 4 (2) The gross receipts derived from the lease or rental of tangible personal
5 property where the lease or rental of such property is an established
6 business now subject to the ~~three percent (3%)~~ four percent (4%) sales
7 tax imposed by the State under G.S. 105-164.4(2);
- 8 (3) The gross receipts derived from the rental of any room or lodging
9 furnished by any hotel, motel, inn, tourist camp or other similar
10 accommodations now subject to the ~~three percent (3%)~~ four percent
11 (4%) sales tax imposed by the State under G.S. 105-164.4(3); and
- 12 (4) The gross receipts derived from services rendered by laundries, dry
13 cleaners, cleaning plants and similar type businesses now subject to the
14 ~~three percent (3%)~~ four percent (4%) sales tax imposed by the State
15 under G.S. 105-164.4(4).

16 The sales tax authorized by this Article does not apply to sales by a utility of electricity,
17 piped natural gas, local, toll, or private telecommunications services as defined by G.S.
18 105-120(a).

19 The exemptions and exclusions contained in G.S. 105-164.13 and the refund
20 provisions contained in G.S. 105-164.14 shall apply with equal force and in like manner
21 to the local sales and use tax authorized to be levied and imposed under this Article. A
22 taxing county shall have no authority, with respect to the local sales and use tax
23 imposed under this Article to change, alter, add to or delete any refund provisions
24 contained in G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-
25 164.13 or which are elsewhere provided for.

26 The local sales tax authorized to be imposed and levied under the provisions of this
27 Article shall be applicable to such retail sales, leases, rentals, rendering of services,
28 furnishing of rooms, lodgings or accommodations and other taxable transactions which
29 are made, furnished or rendered by retailers whose place of business is located within
30 the taxing county. The tax imposed shall apply to the furnishing of rooms, lodging or
31 other accommodations within the county which are rented to transients. For the purpose
32 of this Article, the situs of a transaction is the location of the retailer's place of
33 business."

34 Sec. 32. G.S. 105-468 reads as rewritten:

35 "**§ 105-468. Use tax imposed; limited to items upon which the State now imposes a**
36 **~~three percent~~ four percent use tax.**

37 The use tax which may be imposed under this Article shall be at the rate of one
38 percent (1%) of the cost price of each item or article of tangible personal property when
39 the same is not sold but used, consumed or stored for use or consumption in the taxing
40 county, except that no tax shall be imposed upon such tangible personal property when,
41 if the property were subject to the use tax imposed by G.S. 105-164.6, such property
42 would be taxed by the State of North Carolina at a rate less than ~~three percent (3%)~~ four
43 percent (4%).

1 Every retailer engaged in business in this State and in the taxing county and required
2 to collect the use tax levied by G.S. 105-164.6 shall also collect the one percent (1%)
3 use tax when such property is to be used, consumed or stored in the taxing county, said
4 one percent (1%) use tax to be collected concurrently with the State's use tax; but no
5 retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to
6 collect the one percent (1%) use tax. The use tax contemplated by this section shall be
7 levied against the purchaser, and his liability for such use tax shall be extinguished only
8 upon his payment of the use tax to the retailer, where the retailer is required to collect
9 the tax, or to the Secretary of Revenue, or to the taxing county, as appropriate, where
10 the retailer is not required to collect the tax.

11 Where a local sales or use tax has been paid with respect to said tangible personal
12 property by the purchaser thereof, either in another taxing county within the State, or in
13 a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose
14 and intent to the tax which may be imposed pursuant to this Article, said tax may be
15 credited against the tax imposed under this section by a taxing county upon the same
16 property. If the amount of sales or use tax so paid is less than the amount of the use tax
17 due the taxing county under this section, the purchaser shall pay to the Secretary of
18 Revenue or to the taxing county, as appropriate, an amount equal to the difference
19 between the amount so paid in the other taxing county or jurisdiction and the amount
20 due in the taxing county hereunder. The Secretary of Revenue or the taxing county, as
21 appropriate, may require such proof of payment in another taxing county or jurisdiction
22 as is deemed to be necessary and proper. The use tax levied hereunder shall not be
23 subject to credit for payment of any State sales or use tax not imposed for the benefit
24 and use of counties and municipalities. No credit shall be given under this section for
25 sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction
26 does not grant similar credit for sales taxes paid under this Article."

27 Sec. 33. Article 39 of Chapter 105 of the General Statutes is amended by
28 adding a new section to read:

29 **"§ 105-468.2. Local sales and use tax on food and nonprescription medicines.**

30 Notwithstanding the provisions of G.S. 105-467 and G.S. 105-468, the sales and use
31 tax that may be imposed under this Article applies to food for human consumption and
32 to nonprescription drugs and medicines taxed by the State at the rate of one percent
33 (1%) pursuant to G.S. 105-164.4. The tax does not apply, however, to food or
34 medicines exempted from State tax in G.S. 105-164.13."

35 Sec. 34. G.S. 105-470 reads as rewritten:

36 **"§ 105-470. Retail bracket system; application to local sales and use tax.**

37 For the convenience of the retailer in collecting the State sales or use tax due at the
38 rate of ~~three percent (3%)~~ four percent (4%) and the local sales or use tax due at the rate
39 of one percent (1%), and to facilitate the administration of this Article, every retailer
40 engaged in or continuing in business in any county wherein the tax imposed and levied
41 herein shall be applicable, is required by this Article to add to the sales price and collect
42 from the purchaser on all taxable sales other than sales of food and medicine subject to
43 the State tax at the rate of one percent (1%) an amount equal to the following:

44 ~~No amount on sales of less than 10¢~~

- 1 ~~1¢ on sales of 10¢ to 29¢~~
 2 ~~2¢ on sales of 30¢ to 59¢~~
 3 ~~3¢ on sales of 60¢ to 84¢~~
 4 ~~4¢ on sales of 85¢ to \$1.12~~
 5 ~~Sales over \$1.12—straight four percent (4%) with major fractions governing.~~
 6 (1) No amount on sales of less than 9¢;
 7 (2) 1¢ on sales of 9¢ through 23¢;
 8 (3) 2¢ on sales of 24¢ through 48¢;
 9 (4) 3¢ on sales of 49¢ through 67¢;
 10 (5) 4¢ on sales of 68¢ through 85¢;
 11 (6) 5¢ on sales of 86¢ through \$1.09; and
 12 (7) Sales of over \$1.09—straight five percent (5%) with
 13 major fractions governing.

14 The use of the bracket system, set out above, shall not relieve the retailer from the
 15 duty and liability of collecting and remitting to the Secretary of Revenue, or to a taxing
 16 county, as appropriate, an amount equal to the tax imposed by the taxing county under
 17 this Article.

18 The following bracket applies to collections by retailers on sales of food and
 19 medicine subject to the State tax at the rate of one percent (1%) in a county that levies
 20 the local sales and use tax under this Article:

- 21 (1) No amount on sales of less than 15¢.
 22 (2) 1¢ on sales of 15¢ and over but not in excess of 56¢.
 23 (3) 2¢ on sales of 57¢ and over but not in excess of \$1.24.
 24 (4) Sales over \$1.24 – straight two percent (2%) with
 25 major fractions governing."

26 Sec. 35. G.S. 105-485 reads as rewritten:

27 **"§ 105-485. Retail collection bracket.**

28 The following bracket applies to collections by retailers on sales other than sales of
 29 food and medicine subject to the State tax at the rate of one percent (1%) in a county
 30 that levies additional sales and use taxes under this Article:

- 31 ~~(1) No amount on sales of less than 10¢;~~
 32 ~~(2) 1¢ on sales of 10¢ to 25¢;~~
 33 ~~(3) 2¢ on sales of 26¢ to 53¢;~~
 34 ~~(4) 3¢ on sales of 54¢ to 75¢;~~
 35 ~~(5) 4¢ on sales of 76¢ to 95¢;~~
 36 ~~(6) 5¢ on sales of 96¢ to \$1.22; and~~
 37 ~~-(7) Sales of over \$1.22—straight four and one-half percent (4 1/2%) with major~~
 38 ~~fractions governing.~~
 39 (1) No amount on sales of less than 9¢;
 40 (2) 1¢ on sales of 9¢ through 21¢;
 41 (3) 2¢ on sales of 22¢ through 43¢;
 42 (4) 3¢ on sales of 44¢ through 61¢;
 43 (5) 4¢ on sales of 62¢ through 78¢;
 44 (6) 5¢ on sales of 79¢ through 96¢;

1 (7) 6¢ on sales of 97¢ through \$1.18; and

2 (8) Sales of over \$1.18—straight five and one-half
3 percent (5-1/2%) with major fractions governing.

4 The following bracket applies to collections by retailers on sales of food and
5 medicine subject to the State tax at the rate of one percent (1%) in a county that levies
6 additional sales and use taxes under this Article:

7 (1) No amount on sales of less than 12¢.

8 (2) 1¢ on sales of 12¢ and over but not in excess of 45¢.

9 (3) 2¢ on sales of 46¢ and over but not in excess of 91¢.

10 (4) 3¢ on sales of 92¢ and over but not in excess of \$1.39.

11 (5) Sales over \$1.39 – straight two and one-half percent
12 (2-1/2%) with major fractions governing."

13 Sec. 36. G.S. 105-492 reads as rewritten:

14 **"§ 105-492. Retail collection bracket.**

15 The following bracket applies to collections by retailers on sales other than sales of
16 food and medicine subject to the State tax at the rate of one percent (1%) in a county
17 that levies sales and use taxes under this Article:

18 ~~(1) No amount on sales of less than 10¢;~~

19 ~~(2) 1¢ on sales of 10¢ to 30¢;~~

20 ~~(3) 2¢ on sales of 31¢ to 65¢;~~

21 ~~(4) 3¢ on sales of 66¢ to 95¢;~~

22 ~~(5) 4¢ on sales of 96¢ to \$1.28; and~~

23 ~~(6) Sales of over \$1.28—straight three and one-half percent (3 1/2%) with major~~
24 ~~fractions governing.~~

25 (1) No amount on sales of less than 10¢;

26 (2) 1¢ on sales of 10¢ through 25¢;

27 (3) 2¢ on sales of 26¢ through 53¢;

28 (4) 3¢ on sales of 54¢ through 75¢;

29 (5) 4¢ on sales of 76¢ through 95¢;

30 (6) 5¢ on sales of 96¢ through \$1.22; and

31 (7) Sales of over \$1.22—straight four and one-half
32 percent (4-1/2%) with major fractions governing.

33 The following bracket applies to collections by retailers on sales of food and
34 medicine subject to the State tax at the rate of one percent (1%) in a county that levies
35 sales and use taxes under this Article:

36 (1) No amount on sales of less than 20¢.

37 (2) 1¢ on sales of 20¢ and over but not in excess of 75¢.

38 (3) 2¢ on sales of 76¢ and over but not in excess of \$1.66.

39 (4) Sales over \$1.66 – straight one and one-half percent
40 (1-1/2%) with major fractions governing."

41 Sec. 37. G.S. 105-500 reads as rewritten:

42 **"§ 105-500. Retail collection bracket.**

1 The following bracket applies to collections by retailers on sales other than sales of
 2 food and medicine subject to the State tax at the rate of one percent (1%) in a county
 3 that levies additional sales and use taxes under this Article:

- 4 ~~(1) No amount on sales of less than 9¢;~~
 5 ~~(2) 1¢ on sales of 9¢ to 23¢;~~
 6 ~~(3) 2¢ on sales of 24¢ to 48¢;~~
 7 ~~(4) 3¢ on sales of 49¢ to 67¢;~~
 8 ~~(5) 4¢ on sales of 68¢ to 85¢;~~
 9 ~~(6) 5¢ on sales of 86¢ to \$1.09; and~~
 10 ~~-(7) Sales of over \$1.09 — straight five percent (5%) with major fractions~~

11 governing:

- 12 (1) No amount on sales of less than 9¢;
 13 (2) 1¢ on sales of 9¢ through 19¢;
 14 (3) 2¢ on sales of 20¢ through 39¢;
 15 (4) 3¢ on sales of 40¢ through 56¢;
 16 (5) 4¢ on sales of 57¢ through 71¢;
 17 (6) 5¢ on sales of 72¢ through 88¢;
 18 (7) 6¢ on sales of 89¢ through \$1.08; and
 19 (8) Sales of over \$1.08—straight six percent
 20 (6%) with major fractions governing.

21 The following bracket applies to collections by retailers on sales of food and
 22 medicine subject to the State tax at the rate of one percent (1%) in a county that levies
 23 additional sales and use taxes under this Article:

- 24 (1) No amount on sales of less than 10¢.
 25 (2) 1¢ on sales of 10¢ and over but not in excess of 35¢.
 26 (3) 2¢ on sales of 36¢ and over but not in excess of 70¢.
 27 (4) 3¢ on sales of 71¢ and over but not in excess of \$1.16.
 28 (5) Sales of over \$1.16 – straight three percent
 29 (3%) with major fractions governing."

30 Sec. 38. Chapter 1096 of the 1967 Session Laws, as amended, is further
 31 amended as follows:

32 (1) By deleting the phrases "THREE PER CENT", "three per cent (3%)",
 33 "Three Per Cent (3%)", "Three Percent (3%)", and "three percent (3%)" wherever they
 34 appear and substituting the phrase "FOUR PERCENT (4%)", "four percent (4%)", or
 35 "Four Percent (4%)", as appropriate;

36 (2) By adding a new section to read:

37 "Sec. 5A. Local sales and use tax on food and nonprescription medicines.

38 Notwithstanding the provisions of Sections 4 and 5 of this act, the sales tax and use
 39 tax that may be imposed under this act applies to food for human consumption and to
 40 nonprescription drugs and medicines taxed by the State at the rate of one percent (1%)
 41 pursuant to G.S. 105-164.4. The tax does not apply, however, to food or medicines
 42 exempted from State tax in G.S. 105-164.13."; and

43 (3) By deleting the tax table at the end of the first paragraph of Section 7 and
 44 substituting the following:

- 1 "(1) No amount on sales of less than 9¢;
- 2 (2) 1¢ on sales of 9¢ through 23¢;
- 3 (3) 2¢ on sales of 24¢ through 48¢;
- 4 (4) 3¢ on sales of 49¢ through 67¢;
- 5 (5) 4¢ on sales of 68¢ through 85¢;
- 6 (6) 5¢ on sales of 86¢ through \$1.09; and
- 7 (7) Sales of over \$1.09—straight five percent (5%) with
- 8 major fractions governing.

9 Provided, however, that the following bracket applies to collections by retailers on
10 sales of food and medicine subject to the State tax at the rate of one percent (1%):

- 11 (1) No amount on sales of less than 10¢.
- 12 (2) 1¢ on sales of 10¢ and over but not in excess of 35¢.
- 13 (3) 2¢ on sales of 36¢ and over but not in excess of 70¢.
- 14 (4) 3¢ on sales of 71¢ and over but not in excess of \$1.16.
- 15 (5) Sales of over \$1.16 – straight three percent
- 16 (3%) with major fractions governing."

17 Sec. 39. (a) Approval under the Local Government Sales and Use Tax Act,
18 Article 39 of Chapter 105 of the General Statutes, or under the Mecklenburg County
19 Sales and Use Tax Act, Chapter 1096 of the 1967 Session Laws, as amended, of one
20 percent (1%) local sales and use taxes in addition to the three percent (3%) State sales
21 and use taxes constitutes approval of one percent (1%) local sales and use taxes in
22 addition to the four percent (4%) State sales and use taxes and the one percent (1%)
23 State sales and use taxes on food for human consumption and nonprescription
24 medicines.

25 (b) Approval under the Supplemental Local Government Sales and Use Tax Act,
26 Article 40 of Chapter 105 of the General Statutes, of one-half percent (1/2%) local sales
27 and use taxes in addition to the one percent (1%) local sales and use taxes and three
28 percent (3%) State sales and use taxes constitutes approval of one-half percent (1/2%)
29 local sales and use taxes in addition to the one percent (1%) local sales and use taxes
30 and the four percent (4%) State sales and use taxes and the one percent (1%) State sales
31 and use taxes on food for human consumption and nonprescription medicines.

32 (c) Approval under the Alternative Local Government Sales and Use Tax Act,
33 Article 41 of Chapter 105 of the General Statutes, of one-half percent (1/2%) local sales
34 and use taxes in addition to the three percent (3%) State sales and use taxes constitutes
35 approval of one-half percent (1/2%) local sales and use taxes in addition to the four
36 percent (4%) State sales and use taxes and the one percent (1%) State sales and use
37 taxes on food for human consumption and nonprescription medicines.

38 (d) Approval under the Additional Supplemental Local Government Sales and
39 Use Tax Act, Article 42 of Chapter 105 of the General Statutes, of one-half percent
40 (1/2%) local sales and use taxes in addition to the one and one-half percent (1-1/2%)
41 local sales and use taxes and three percent (3%) State sales and use taxes constitutes
42 approval of one-half percent (1/2%) local sales and use taxes in addition to the one and
43 one-half percent (1-1/2%) local sales and use taxes and the four percent (4%) State sales

1 and use taxes and the one percent (1%) State sales and use taxes on food for human
2 consumption and nonprescription medicines.

3 **PART V.**

4 **FRANCHISE TAX CHANGES.**

5 Sec. 40. Effective July 1, 1990, G.S. 105-116 reads as rewritten:

6 **"§ 105-116. Franchise or privilege tax on electric light, power, gas, water,
7 sewerage, and other similar public service companies not otherwise
8 taxed.**

9 (a) Every person, firm or corporation, domestic or foreign, other than municipal
10 corporations, engaged in the business of furnishing electricity, electric lights, current,
11 power or piped gas, or owning and/or operating a water system subject to regulation by
12 the North Carolina Utilities Commission, or owning and/or operating a public sewerage
13 system shall, within 30 days after the first day of ~~January, April, July and October of~~
14 ~~each year,~~ each month make and deliver to the Secretary of Revenue, upon such forms
15 and blanks as required by him, a report verified by the affirmation of the officer or
16 authorized agent making such report and statement, containing the following
17 information:

- 18 (1) The total gross receipts for ~~the three months ending the last day of the~~
19 month immediately preceding such return from such business within
20 and without this State.
- 21 (2) The total gross receipts for the same period from such business within
22 this State.
- 23 (3) The total gross receipts from the commodities or services described in
24 this section sold to a vendee subject to the tax levied by this section or
25 to a joint agency established under Chapter 159B of the General
26 Statutes or a municipality having an ownership share in a project
27 established under that Chapter.
- 28 (4) The total amount and price paid for such commodities or services
29 purchased from others engaged in the above-named business in this
30 State, and the name or names of the vendor.
- 31 (5) As to gas companies, the gross receipts derived from sales of piped gas
32 to manufacturers which is to be used as an ingredient or component of
33 a manufactured product.

34 Gross receipts shall be reported on an accrual basis.

35 (b) From the total gross receipts within this State there shall be deducted the
36 gross receipts reported in subsection (a)(3) of this section.

37 (c) An annual franchise or privilege tax at the rates specified in this subsection is
38 levied on the businesses listed in subsection (a). This tax is for the privilege of
39 engaging in business in this State and is due and payable ~~quarterly~~ monthly to the
40 Secretary of Revenue when the report required by subsection (a) is filed. The tax on a
41 public sewerage company is at the rate of six percent (6%) of the total gross receipts of
42 the company derived within the State. The tax on an electric power company or a gas
43 company is at the rate of three and twenty-two hundredths percent (3.22%) of the total
44 gross receipts derived within the State. The tax on water companies is at the rate of four

1 percent (4%) of the total gross receipts derived within the State. All deductions allowed
2 by this section shall first be subtracted from total gross receipts to determine the total
3 taxable gross receipts.

4 The tax imposed by this section does not apply to special charges collected within
5 this State by natural gas utilities pursuant to drilling and exploration surcharges
6 approved by the Utilities Commission, where such surcharges are segregated from the
7 other receipts of the natural gas utility and are devoted to drilling, exploration and other
8 means to acquire additional supplies of natural gas for the account of natural gas
9 customers in North Carolina and where the beneficial interest in said surcharge
10 collections is preserved for the natural gas customers paying said surcharges under rules
11 established by the Utilities Commission.

12 In determining the total tax payable by any company under this section, there shall
13 be allowed as a credit on such tax the amount of the credit authorized by Division V of
14 Article 4 of this Chapter.

15 (d) Repealed by Session Laws 1973, c. 1287, s. 3.

16 (e) The report herein required of gross receipts within and without the State, shall
17 include the total gross receipts for the period stated of all properties owned and operated
18 by the reporting person, firm, or corporation on the first day of each calendar ~~quarter~~
19 ~~year, month,~~ whether operated by it for the previous annual period, or whether
20 intermediately acquired by purchase or lease, it being the intent and purpose of this
21 section to measure the amount of privilege or franchise tax in each calendar ~~quarter year~~
22 month with reference to the gross receipts of the property operated for the previous
23 calendar ~~quarter year month~~ and to fix liability for the payment of the tax on the owner,
24 operator, or lessor on the first day of ~~January, April, July and October of each year.~~
25 month.

26 (f) Companies taxed under this section shall not be required to pay the franchise
27 tax imposed by G.S. 105-122 or G.S. 105-123 unless the tax levied by G.S. 105-122 or
28 G.S. 105-123 exceeds the tax levied in this section, and no county shall impose a
29 franchise, license or privilege tax upon the business taxed under this section.

30 (g) The Secretary of Revenue shall determine the total gross receipts derived
31 from the sale within each municipality of the commodities or services described in this
32 section, except water and sewerage services, and shall distribute to each municipality an
33 amount equal to a tax of three and nine hundredths percent (3.09%) of the gross receipts
34 from sales within the municipality. In determining the amount to be distributed to a
35 municipality pursuant to this subsection, gross receipts from sales within a municipality
36 do not include receipts from sales of piped gas to a manufacturer for use as an
37 ingredient or component part of a manufactured product.

38 As soon as practicable after the ~~date on which each quarterly payment of taxes is due~~
39 ~~under this section, end of each calendar quarter,~~ the Secretary of Revenue shall, from
40 the tax due and paid monthly during that quarter under this section, certify to the State
41 ~~Disbursing Officer Controller~~ and to the State Treasurer the amount distributable to
42 each municipality under this section. The State ~~Disbursing Officer Controller~~ shall
43 thereupon issue a warrant on the State Treasurer to each municipality in the amount so
44 certified.

1 So long as there is a distribution to municipalities of the amount herein provided
2 from the tax imposed by this section, no municipality shall impose or collect any greater
3 franchise, privilege or license taxes, in the aggregate, on the businesses taxed under this
4 section, than was imposed and collected on or before January 1, 1947. If any
5 municipality shall have collected any privilege, license or franchise tax between January
6 1, 1947, and April 1, 1949, in excess of the tax collected by it prior to January 1, 1947,
7 then upon distribution of the taxes imposed by this section to municipalities, the amount
8 distributable to any municipality shall be credited with such excess payment.

9 (h) For purposes of subsection (g) and of G.S. 105-120(d), the term
10 "municipality" includes any urban service district defined by the governing board of a
11 consolidated city-county, and the amounts due thereby shall be distributed to the
12 government of the consolidated city-county."

13 Sec. 41. Effective July 1, 1990, G.S. 105-120 reads as rewritten:

14 **"§ 105-120. Franchise or privilege tax on telephone companies.**

15 (a) Every person, firm, or corporation, domestic or foreign, owning and/or
16 operating a business entity for the provision of local telecommunications service, shall
17 within 30 days after the first day of ~~January, April, July and October of each year, each~~
18 month make and deliver to the Secretary of Revenue a ~~quarterly~~ monthly return, verified
19 by the affirmation of the officer or authorized agent making such return, showing the
20 total amount of gross receipts of such business entity for the ~~three months ending the~~
21 ~~last day of the month~~ immediately preceding such return, and pay, at the time of making
22 such return, the franchise, license or privilege tax herein imposed. Gross receipts shall
23 be reported on an accrual basis.

24 For purposes of this section:

- 25 (1) 'Local telecommunications service' means telecommunications service
26 provided wholly within a LATA entitling the user to access to a local
27 telephone exchange for the privilege of telephonic quality
28 communication with substantially all persons in the local telephone
29 exchange. Provided, however, local telecommunications service does
30 not include intraLATA or interLATA toll telecommunications
31 services, or private telecommunications services;
- 32 (2) 'LATA' is a Local Access and Transport Area representing a
33 geographical area comprising one or more telephone exchange areas;
- 34 (3) 'InterLATA telecommunications' is telecommunications service
35 provided between two or more LATAs;
- 36 (4) 'Toll telecommunications service' means:
- 37 a. A telephonic quality communication for which:
- 38 1. There is a toll charge which varies in amount with the
39 distance and elapsed transmission time of each
40 individual communication; and
- 41 2. The charge is paid within the United States; and
- 42 b. A service which entitles the subscriber, upon payment of a
43 periodic charge (determined as flat amount or upon the basis of
44 total elapsed transmission time), to the privilege of an unlimited

1 number of telephonic communications to or from all or a
2 substantial portion of the persons having telephone or
3 radiotelephone stations in a specified area which is outside the
4 local telephone exchange;

5 (5) 'Private telecommunications service' means a service furnished to a
6 subscriber that entitles the subscriber to exclusive or priority use of a
7 communications channel or group of channels between exchanges.

8 (b) An annual franchise or privilege tax of three and twenty-two hundredths
9 percent (3.22%), payable ~~quarterly, monthly,~~ on the gross receipts of such business
10 entity, is herein imposed for the privilege of engaging in such business within this State.
11 Provided, however, gross receipts from local telephone service shall not include
12 telecommunications access charges. Such gross receipts shall include all rentals and
13 other similar charges; Provided, where any city or town in the State has heretofore sold
14 at public auction to the highest bidder the right, license and/or privilege of engaging in
15 such business in such city or town, based upon a percentage of gross revenue of such
16 business entity, and is now collecting and receiving therefor a revenue tax not exceeding
17 one percent of such revenues, the amount so paid by such business entity, upon being
18 certified by the treasurer of such municipality to the Secretary of Revenue, shall be from
19 time to time credited by the Secretary of Revenue to such business entity upon the tax
20 imposed by the State under this section of this Chapter. Telecommunications access
21 charges are those charges paid to a provider of local telephone service for access to an
22 interconnection with the local telephone exchange.

23 (c) Repealed by Session Laws 1973, c. 1287, s. 3.

24 (d) The Secretary of Revenue shall ascertain the total gross receipts derived from
25 local business conducted within each municipality in this State by persons, firms or
26 corporations taxed under this section, and out of the tax levied by this section, an
27 amount equal to a tax of three and nine hundredths percent (3.09%) of the gross receipts
28 from local business conducted within any municipality shall be distributed to such
29 municipality. When a person, firm or corporation taxed under this section properly
30 receives a credit on said taxes under the proviso in subsection (b) because of payments
31 made to a municipality, such municipality's distributive share of the taxes levied by this
32 section shall be reduced by the amount of the credit properly received by said person,
33 firm or corporation. If the credit received under the proviso is greater than the
34 municipality's distributive share of the taxes levied under this section, no distribution to
35 such municipality shall be made.

36 As soon as practicable after the ~~date on which each quarterly payment of taxes is due~~
37 ~~under this section, end of each calendar quarter,~~ the Secretary of Revenue shall, from
38 the tax due and paid monthly during that quarter under this section, certify to the State
39 ~~Disbursing Officer Controller~~ and to the State Treasurer the amount distributable to
40 each municipality under this section. The State ~~Disbursing Officer Controller~~ shall
41 thereupon issue a warrant on the State Treasurer to each municipality in the amount so
42 certified.

1 In determining what constitutes local business conducted within a municipality for
2 the purposes of this subsection, all business originating within a municipality, except
3 long-distance calls, shall be construed as local business.

4 The Department of Revenue is hereby authorized and empowered to require any and
5 all persons, firms or corporations taxed under this section to file additional reports
6 disclosing the gross receipts derived from local business as herein defined and the gross
7 receipts from long-distance business.

8 If the records of the corporation taxed under this section do not readily disclose
9 allocation to municipalities of revenues from local business as above defined, the
10 Secretary of Revenue shall prescribe some practicable method of allocating such local
11 revenues.

12 (e) Nothing in this section shall be construed to authorize the imposition of any
13 tax upon interstate commerce.

14 (f) Counties, cities and towns shall not levy any franchise, license, or privilege
15 tax on the business taxed under this section or under G.S. 105-164.4(4c)."

16 PART VI.

17 PUBLIC SCHOOL FUND CREATED.

18 Sec. 42. G.S. 115C-408 reads as rewritten:

19 "**§ 115C-408. Funds under control of the State Board of Education.**

20 (a) It is the policy of the State of North Carolina that the general and uniform
21 system of free public schools provided for in the Constitution shall be a priority item in
22 the State's budget and that at all times sufficient funds shall be available to pay the
23 State's share of the costs of such public schools. To that end there is created within the
24 General Fund an account in the State Budget for a Public School Fund to which there
25 shall be appropriated biennially from the General Fund revenues collected by the
26 Secretary of Revenue from Sales and Corporate Income taxes and the other tax and
27 nontax revenues received by the General Fund and from which there shall be
28 appropriated and disbursed the State's share of the costs of operating such public
29 schools for the biennium.

30 It is the further policy of the State of North Carolina to create a public school system
31 that graduates good citizens with the skills demanded in the marketplace, and the skills
32 necessary to cope with contemporary society, using State, local and other funds in the
33 most cost-effective manner. The Board shall have general supervision and
34 administration of the educational funds provided by the State and federal governments,
35 except those mentioned in Section 7 of Article IX of the State Constitution, and also
36 excepting such local funds as may be provided by a county, city, or district.

37 (b) To insure a quality education for every child in North Carolina, and to assure
38 that the necessary resources are provided, it is the policy of the State of North Carolina
39 to provide from State revenue sources the instructional expenses for current operations
40 of the public school system as defined in the standard course of study.

41 It is the policy of the State of North Carolina that the facilities requirements for a
42 public education system will be met by county governments.

1 It is the intent of the 1983 General Assembly to further clarify and delineate the
2 specific financial responsibilities for the public schools to be borne by State and local
3 governments."

4 **PART VII.**

5 **EFFECTIVE DATES.**

6 Sec. 43. Sections 29, 40, and 41 of this act shall become effective July 1,
7 1990, and apply to gross receipts earned from services and commodities provided on or
8 after that date and to sales of electricity, piped natural gas, or telephone service made on
9 or after that date. Section 14 of this act shall become effective upon convening of the
10 1991 Regular Session of the General Assembly. The remainder of this act shall become
11 effective July 1, 1989, and Sections 24 through 39 shall apply to sales made on or after
12 that date.