

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 692
HOUSE BILL 399

AN ACT TO ESTABLISH THE NORTH CAROLINA HIGHWAY TRUST FUND,
TO PROVIDE REVENUE FOR THE FUND, TO DESIGNATE HOW REVENUE
IN THE FUND IS TO BE USED, AND TO RAISE REVENUE FOR THE
GENERAL FUND.

CONTENTS

- I. NORTH CAROLINA HIGHWAY TRUST FUND
- II. CERTIFICATE OF TITLE FEE/ALTERNATE TRANSPORTATION
FUNDING
- III. SALES TAX CHANGES
- IV. MOTOR VEHICLE USE TAX
- V. MOTOR FUEL TAX
- VI. REPEAL ROAD TAX REGISTRATION FEE
- VII. ESTIMATED INCOME TAX AMENDMENTS
- VIII. EFFECTIVE DATES AND SUNSET

PART I.

HIGHWAY TRUST FUND.

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

"ARTICLE 14.

"North Carolina Highway Trust Fund.

"§ 136-175. Definitions.

The following definitions apply in this Article:

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

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

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

- (1) Motor fuel, special fuel, and road tax revenue deposited in the Fund under G.S. 105-445, 105-449.16, and 105-449.43, respectively.

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

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

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

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

(d) A contract may be let for projects funded from the Trust Fund in anticipation of revenues pursuant to the cash-flow provisions of G.S. 143-28.1 only for the biennium following the year in which the contract is let.

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

In a fiscal year, the Department of Transportation may not obligate more Trust Fund revenue, other than revenue allocated for city streets under G.S. 136-176(b)(3) or secondary roads under G.S. 136-176(b)(4) and G.S. 20-85(b), to construct or improve highways than the amount indicated in the following table:

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

The amount of revenue credited to the Trust Fund in a fiscal year under G.S. 136-176(a) that exceeds the maximum allowable expenditure set in the table above may be used

only for preliminary planning and design and the acquisition of rights-of-way for scheduled highways and highway improvements to be funded from the Trust Fund.

"§ 136-178. Purpose of Intrastate System.

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

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

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

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

<u>Route</u>	<u>Improvements</u>	<u>Affected Counties</u>
<u>I-40</u>	<u>Widening</u>	<u>Buncombe, Haywood, Guilford, Wake, Durham</u>
<u>I-77</u>	<u>Widening</u>	<u>Mecklenburg</u>
<u>I-85</u>	<u>Widening</u>	<u>Durham, Orange, Alamance, Guilford, Cabarrus, Mecklenburg, Gaston</u>
<u>I-95</u>	<u>Widening</u>	<u>Halifax</u>
<u>US-1</u>	<u>Complete 4-laning from Henderson to South Carolina Line (including 6-laning of Raleigh Beltline)</u>	<u>Vance, Franklin, Wake, Chatham, Lee, Moore, Richmond</u>
<u>US-13</u>	<u>Connector from I-95 to NC-87</u>	<u>Cumberland</u>
<u>US-13</u>	<u>Complete 4-laning from Virginia Line to US-17</u>	<u>Gates, Hertford, Bertie</u>
<u>US-17</u>	<u>Complete 4-laning from</u>	<u>Camden, Pasquotank,</u>

	<u>Virginia Line to South Carolina Line (including Washington, New Bern, and Jacksonville Bypasses)</u>	<u>Perquimans, Chowan, Bertie, Martin, Beaufort, Craven, Jones, Onslow, Pender, New Hanover, Brunswick</u>
<u>US-19/ US-19E</u>	<u>Complete 4-laning from US-23 to NC 194 in Ingalls</u>	<u>Madison, Yancey, Mitchell, Avery</u>
<u>US-19</u>	<u>Complete 4-laning</u>	<u>Cherokee, Macon, Swain</u>
<u>US-23</u>	<u>Complete 4-laning and upgrading existing 4-lanes from Tennessee Line to I-240</u>	<u>Madison, Buncombe</u>
<u>US-23-441</u>	<u>Complete 4-laning from US-19/US-74 to Georgia Line</u>	<u>Macon</u>
<u>US-52</u>	<u>Complete 4-laning from I-77 to Lexington (including new I-77 Connector)</u>	<u>Surry, Davidson</u>
<u>US-64</u>	<u>Complete 4-laning from Raleigh to Coast (including freeway construction from I-95 to US-17)</u>	<u>Edgecombe, Pitt, Martin, Washington, Tyrrell, Dare</u>
<u>US-64</u>	<u>Complete 4-laning from Lexington to Raleigh</u>	<u>Davidson, Randolph, Chatham, Wake</u>
<u>US-70</u>	<u>Complete 4-laning from Raleigh to Morehead City (including Clayton, Goldsboro, Kinston, Smithfield-Selma, and Havelock Bypasses predominately freeways</u>	<u>Wake, Johnston, Wayne, Lenoir, Craven</u>

	<u>on predominately new locations)</u>	
<u>US-74</u>	<u>Complete 4-laning from Charlotte to US-17 (including multilaning of Independence Blvd. in Charlotte, and Bypasses of Monroe, Rockingham, and Hamlet)</u>	<u>Mecklenburg, Union, Richmond, Robeson, Columbus</u>
<u>US-74</u>	<u>Complete 4-laning from I-26 to I-85</u>	<u>Polk, Rutherford</u>
<u>US-158</u>	<u>Complete 4-laning from Winston-Salem to Whalebone</u>	<u>Forsyth, Guilford, Rockingham, Caswell, Person, Granville, Vance, Warren, Halifax, Northampton, Gates, Hertford, Pasquotank, Camden, Currituck, Dare</u>
	<u>New bridge over Currituck Sound</u>	<u>Currituck</u>
<u>US-221</u>	<u>Complete 4-laning from Linville to South Carolina</u>	<u>Avery, McDowell, Rutherford</u>
<u>US-220</u>	<u>Complete 4-laning from I-40 to US-1</u>	<u>Guilford, Randolph, Montgomery, Richmond</u>
<u>US-220/NC-68</u>	<u>Complete 4-laning from Virginia Line to I-40</u>	<u>Rockingham, Guilford</u>
<u>US-264</u>	<u>Complete 4-laning from US-64 to Washington (including Wilson and Greenville Bypasses) (including freeway construction from I-95 to Greenville)</u>	<u>Wilson, Greene, Pitt</u>

<u>US-321</u>	<u>Complete 4-laning from Boone to South Carolina Line</u>	<u>Caldwell, Catawba, Lincoln, Gaston</u>
<u>US-421</u>	<u>Complete 4-laning from Tennessee Line to I-40</u>	<u>Watauga, Wilkes, Yadkin</u>
<u>US-421</u>	<u>Complete 4-laning from Greensboro to Sanford (including Bypass of Sanford)</u>	<u>Chatham, Lee</u>
<u>NC-24</u>	<u>Complete 4-laning from Charlotte to Morehead City</u> <u>Harnett, Cumberland, Sampson, Duplin, Onslow, Carteret</u>	<u>Mecklenburg, Cabarrus, Stanly, Montgomery, Moore,</u>
<u>NC-87</u>	<u>Complete 4-laning from Sanford to US-74</u> <u>Columbus</u>	<u>Lee, Harnett, Cumberland, Bladen,</u>
<u>NC-105</u>	<u>Complete 4-laning from Boone to Linville</u>	<u>Watauga, Avery</u>
<u>NC-168</u>	<u>Complete multilaning from Virginia Line to US-158</u>	<u>Currituck</u>
<u>NC-194</u>	<u>Complete 4-laning from US-19E to US-221</u>	<u>Avery</u>

"§ 136-180. Urban loops.

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

<u>Loop</u>	<u>Description</u>	<u>Affected Counties</u>
<u>Asheville Western Loop</u>	<u>Multilane facility on new location from I-26 west of Asheville to US-19/23 north of Asheville for the purpose of connecting these</u>	<u>Buncombe</u>

roads. The funds may be used to improve existing corridors.

<u>Charlotte Outer Loop</u>	<u>Multilane facility on new location encircling City of Charlotte</u>	<u>Mecklenburg</u>
<u>Durham Northern Loop</u>	<u>Multilane facility on new location from I-85 west of Durham to US-70 east of Durham</u>	<u>Durham, Orange</u>
<u>Greensboro Loop</u>	<u>Multilane facility on new location encircling City of Greensboro</u>	<u>Guilford</u>
<u>Raleigh Outer Loop</u>	<u>Multilane facility on new location from US-1 southwest of Cary northerly to US-64 in eastern Wake County</u>	<u>Wake</u>
<u>Wilmington Bypass</u>	<u>Multilane facility on new location from US-17 northeast of Wilmington to US-17 southwest of Wilmington</u>	<u>New Hanover</u>
<u>Winston-Salem Northbelt</u>	<u>Multilane facility on new location from I-40 west of Winston-Salem northerly to I-40 in eastern Forsyth County</u>	<u>Forsyth</u>

"§ 136-181. Supplement for city streets.

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

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

Funds are allocated from the Trust Fund to increase allocations for secondary road construction made under G.S. 136-44.2A so that all State-maintained unpaved secondary roads with a traffic vehicular equivalent of at least 50 vehicles a day can be paved by the 1998-99 fiscal year. This supplement shall be discontinued when the Department of Transportation certifies that, with funds available from sources other than the Trust Fund, all State-maintained unpaved secondary roads, regardless of their

traffic vehicular equivalent, can be paved during the following six years. If the supplement is discontinued before the Trust Fund terminates, the funds that would otherwise be allocated under this section shall be added to the allocation from the Trust Fund for projects of the Intrastate System.

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

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

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

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

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

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

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

Sec. 1.2. Chapter 120 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 12E.

"Joint Legislative Highway Oversight Committee.

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

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

- (1) Eight members of the Senate appointed by the President Pro Tempore of the Senate, at least two of whom are members of the minority party; and

- (2) Eight members of the House of Representatives appointed by the Speaker of the House of Representatives, at least three of whom are members of the minority party.

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

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

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

(a) The Joint Legislative Highway Oversight Committee shall:

- (1) Review reports prepared by the Department of Transportation under G.S. 136-184.
- (2) Monitor the funds deposited in and expenditures from the North Carolina Highway Trust Fund and the Highway Fund.
- (3) Determine whether funds in the Trust Fund are spent in accordance with G.S. 136-17.2A and Article 14 of Chapter 136.
- (4) Determine whether any revisions are needed in the funding for a program for which funds in the Trust Fund may be used, including revisions needed to meet any statutory timetable for the program.
- (5) Report to the General Assembly at the beginning of each regular session concerning its determinations of needed changes in the funding for programs funded from the Trust Fund.

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

"§ 120-70.52. Organization of Committee.

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

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

(c) The Committee shall be funded by appropriations made to the Highway Trust Fund and allocated to the Intrastate System projects. Members of the Committee receive subsistence and travel expenses as provided in G.S. 120-3.1. The Committee may contract for consultants or hire employees in accordance with G.S. 120-32.02. The Legislative Services Commission, through the Legislative Administrative Officer, shall assign professional staff to assist the Committee in its work. Upon the direction of the

Legislative Services Commission, the Supervisors of Clerks of the Senate and of the House of Representatives shall assign clerical staff to the Committee. The expenses for clerical employees shall be borne by the Committee."

Sec. 1.3. G.S. 136-12 reads as rewritten:

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

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

(b) At least 25 days before it approves a Transportation Improvement Program in accordance with G.S. 143B-350(f)(4) or approves interim changes to a Transportation Improvement Program, the Department shall submit the proposed Transportation Improvement Program or proposed interim changes to a Transportation Improvement Program to the following members and staff of the General Assembly:

- (1) The Speaker and the Speaker Pro Tempore of the House of Representatives;
- (2) The Lieutenant Governor and the President Pro Tempore of the Senate;
- (3) The Chairs of the House and Senate Appropriations Committees;
- (4) Each member of the Joint Legislative Highway Oversight Committee;
and
- (5) The Fiscal Research Division of the Legislative Services Commission."

Sec. 1.4. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

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

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

- (1) Distribution Region A consists of the following counties: Bertie, Camden, Chowan, Currituck, Dare, Edgecombe, Gates, Halifax,

- Hertford, Hyde, Johnston, Martin, Nash, Northampton, Pasquotank, Perquimans, Tyrrell, Washington, Wayne, and Wilson.
- (2) Distribution Region B consists of the following counties: Beaufort, Brunswick, Carteret, Craven, Duplin, Greene, Jones, Lenoir, New Hanover, Onslow, Pamlico, Pender, Pitt, and Sampson.
 - (3) Distribution Region C consists of the following counties: Bladen, Columbus, Cumberland, Durham, Franklin, Granville, Harnett, Person, Robeson, Vance, Wake, and Warren.
 - (4) Distribution Region D consists of the following counties: Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Orange, Rockingham, Rowan, and Stokes.
 - (5) Distribution Region E consists of the following counties: Anson, Cabarrus, Chatham, Hoke, Lee, Mecklenburg, Montgomery, Moore, Randolph, Richmond, Scotland, Stanly, and Union.
 - (6) Distribution Region F consists of the following counties: Alexander, Alleghany, Ashe, Avery, Caldwell, Catawba, Cleveland, Gaston, Iredell, Lincoln, Surry, Watauga, Wilkes, and Yadkin.
 - (7) Distribution Region G consists of the following counties: Buncombe, Burke, Cherokee, Clay, Graham, Haywood, Henderson, Jackson, Macon, Madison, McDowell, Mitchell, Polk, Rutherford, Swain, Transylvania, and Yancey.

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

- (1) Twenty-five percent (25%) on the estimated number of miles to complete the Intrastate System projects in that distribution region compared to the estimated number of miles to complete the total Intrastate System;
- (2) Fifty percent (50%) on the estimated population of the distribution region compared to the total estimated population of the State; and
- (3) Twenty-five percent (25%) on the fraction one-seventh, which provides an equal share based on the number of distribution regions.

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

- (1) Sixty-six percent (66%) on the estimated population of the distribution region compared to the total estimated population of the State; and

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

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

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

(f) In developing the schedules of improvements to be funded from the Trust Fund and of improvements to be made under the Transportation Improvement Program, the Board of Transportation shall consider the highway needs of every county in a distribution region and shall make every reasonable effort to schedule the construction of highway improvements in a manner that addresses the needs of every county in the region in an equitable and timely manner."

Sec. 1.5. G.S. 136-28.4 reads as rewritten:

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

(a) It is the policy of this State to encourage and promote the use of ~~small, minority, physically handicapped and women~~ minority contractors in the construction, alteration and maintenance of State roads, streets, highways, and bridges and in the procurement of materials for such projects. All State agencies, institutions and political subdivisions shall cooperate with the Department of Transportation and all other State agencies, institutions and political subdivisions in efforts to encourage and promote the use of ~~small, minority, physically handicapped and women~~ minority contractors in such State construction, alteration, maintenance and procurement.

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

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

Sec. 1.6. G.S. 136-41.1(a) reads as rewritten:

"(a) There is ~~hereby~~ annually appropriated out of the State Highway Fund a sum equal to the net amount after refunds that was produced during the fiscal year by a one and three-fourths cents (1 3/4¢) tax on each gallon of motor fuel as taxed by

G.S. 105-434 and 105-435, to be allocated in cash on or before October 1 of each year to the cities and towns of the State in accordance with ~~the following formula: this section.~~ In addition, as provided in G.S. 136-176(b)(3), revenue is allocated and appropriated from the Highway Trust Fund to the cities and towns of this State to be used for the same purposes and distributed in the same manner as the revenue appropriated to them under this section from the Highway Fund. Like the appropriation from the Highway Fund, the appropriation from the Highway Trust Fund shall be based on revenue collected during the fiscal year preceding the date the distribution is made.

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

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

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

~~No allocation to cities and towns shall be made under the provisions of this section from the one cent (1¢) per gallon additional tax on gasoline imposed by Chapter 46 of the Session Laws of 1965, unless and until said additional one cent (1¢) per gallon tax produces funds which are not needed for or committed by said Chapter 46 of the Session Laws of 1965, to the payment of the principal of or the interest on the secondary road bonds issued pursuant to the provisions of said Chapter 46 of the Session Laws of 1965. The Department of Transportation is hereby authorized to~~ The

Department of Transportation may withhold each year an amount not to exceed one percent (1%) of the total amount appropriated in G.S. 136-41.1 appropriated for distribution under this section for the purpose of correcting errors in allocations: Provided, that the amount so withheld and not used for correcting errors will be carried over and added to the amount to be allocated for the following year.

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

Sec. 1.7. G.S. 136-44.2A reads as rewritten:

"§ 136-44.2A. Secondary road construction.

There shall be annually allocated out of the State Highway Fund to the Department of Transportation for secondary road construction programs developed pursuant to G.S. 136-44.7 and 136-44.8, a sum equal to that allocation made from the Highway Fund under G.S. 136-41.1(a). Such secondary roads allocation shall be made in accordance with the provisions of G.S. 136-44.5. In addition, as provided in G.S. 136-176(b)(4) and G.S. 20-85(b), revenue is annually allocated from the Highway Trust Fund for secondary road construction. Of the funds allocated from the Highway Fund and the Highway Trust Fund, the sum of sixty-eight million six hundred seventy thousand dollars (\$68,670,000) shall be allocated among the counties in accordance with G.S. 136-44.5(b). All funds for secondary road construction in excess of that amount shall be allocated among the counties in accordance with G.S. 136-44.5(c)."

Sec. 1.8. G.S. 136-44.5 reads as rewritten:

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

(a) Before July 1, in each calendar year, the Department of Transportation shall make a study of all state-maintained unpaved roads in the State. The study shall determine the number of miles of unpaved state-maintained roads in each county, ~~and~~ the total number of miles of unpaved state-maintained roads in the State. ~~State, the number of miles of unpaved state-maintained roads in each county that have a traffic vehicular equivalent of at least 50 vehicles a day, and the total number of miles of unpaved state-maintained roads in the State that have a traffic vehicular equivalent of at least 50 vehicles a day.~~ Except for federal-aid programs, the Department shall allocate all secondary road construction funds on the basis of a formula using the study figures. ~~The allocation shall be~~

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

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

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

Sec. 1.9. G.S. 136-44.7 reads as rewritten:

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

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

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

Sec. 1.10. G.S. 143B-350(f)(4) reads as rewritten:

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

Sec. 1.11. The Department of Transportation shall determine on which highways, bridges, and ferries it is economically feasible to collect tolls and shall report its findings to the General Assembly. If the Department finds it desirable to establish toll roads, bridges, or ferries, the Department shall include in its report any legislation needed to establish the toll roads, bridges, or ferries and to implement the collection of tolls, including the creation of a North Carolina Toll Authority.

Sec. 1.12. The Legislative Research Commission may study the long-range transportation needs of North Carolina. In conducting the study the Commission may consider the present and future transportation needs for vehicles, trucks, and passenger vehicles, the use and availability of railroad corridors, and the use and availability of high-speed traffic lanes. In addition the Commission may study alternative methods of transportation within a locality, such as a bikeway or sidewalk. The Commission shall further consider the impact that the Highway Trust Fund has on potential revenue sources for alternative transportation and whether the needs of alternative transportation can be met by either the Highway Fund or the Highway Trust Fund.

Sec. 1.13. G.S. 105-445 reads as rewritten:

"§ 105-445. Application of proceeds of gasoline tax.

~~Except as provided in G.S. 105-446.2 and 136-41.1, the fund derived from the tax herein levied shall be for the exclusive uses of the purposes set out in this Article, and disbursed on vouchers drawn by the Board of Transportation in accordance with the acts of the General Assembly dealing with the subject matter herein referred to. Seventy-five percent (75%) of the revenue collected under this Article shall be credited to the Highway Fund and the remaining twenty-five percent (25%) shall be credited to the Highway Trust Fund. A proportionate share of a refund allowed under this Article shall be charged to the Highway Fund and the Highway Trust Fund so that seventy-five percent (75%) of the amount of a refund is charged to the Highway Fund and twenty-five percent (25%) is charged to the Highway Trust Fund.~~"

Sec. 1.14. G.S. 105-446.2(a) reads as rewritten:

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

Sec. 1.15. G.S. 105-449.16 reads as rewritten:

"§ 105-449.16. ~~Levy of tax; purposes; special provisions for certain nonanhydrous ethanol.~~ tax, application of tax proceeds, and exemption for nonanhydrous ethanol.

"(a) A tax at the rate established pursuant to G.S. 105-434 is ~~hereby imposed upon all fuel sold or delivered by any supplier to any licensed user-seller, or used by any such supplier in any motor vehicle owned, leased or operated by him, or delivered by such~~

~~supplier directly into the fuel supply tank of a motor vehicle, or imported by a user-seller into, or acquired tax free by a user-seller or user in this State for resale or use for the propulsion of a motor vehicle. fuel:~~

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

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

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

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

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

~~Sec. 1.16. G.S. 105-449.43 reads as rewritten:~~

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

All taxes and fees collected under this Article shall be paid to the State Highway Fund. The same percentage amounts of tax revenue collected under this Article shall be credited to the Highway Fund and to the Highway Trust Fund as are credited to those Funds under G.S. 105-445, and the same percentage amounts of refunds or credits allowed under this Article shall be charged to the Highway Fund and the Highway Trust Fund as are charged to those Funds under that statute."

Sec. 1.17. Notwithstanding G.S. 136-176(b), the sum of \$11,000,000 for the 1989-90 fiscal year is appropriated from the Highway Trust Fund to the Department of Transportation for administrative expenses of the Trust Fund. This appropriation is in lieu of the allocation under G.S. 136-176(b).

Sec. 1.18. Article 2 of Chapter 136 of the General Statutes is amended by adding a new section to read:

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

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

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

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

PART II.

INCREASE CERTIFICATE OF TITLE FEE/ALTERNATE TRANSPORTATION FUNDING.

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

"§ 20-85. Schedule of fees.

(a) Except as provided in G.S. 20-68, there shall be paid to the Division for the issuance of certificates of title, transfer of registration and replacement of registration plates fees according to the following schedules: the following fees concerning a certificate of title for a motor vehicle and registration of a motor vehicle shall be paid to the Division. These fees are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.

- (1) Each application for certificate of title~~\$5.00~~ \$35.00
- (2) Each application for duplicate or corrected certificate of title~~7.00~~ 10.00

- (3) Each application of reposessor for certificate of title5.00 10.00
- (4) Each transfer of registration4.00 10.00
- (5) Each set of replacement registration plates9.00 10.00
- (6) Each application for duplicate registration certificate.....3.00 10.00
- (7) Each application for recording supplementary lien.....3.00 10.00
- (8) Each application for removing a lien from a certificate of title4.00 10.00.

(b) Six-sevenths of the revenue collected under subdivision (a)(1) of this section and all of the revenue collected under the other subdivisions in subsection (a) shall be credited to the North Carolina Highway Trust Fund; the remaining one-seventh of the revenue collected under subdivision (a)(1) shall be credited to the Highway Fund. One-half of the amount credited to the Trust Fund under subdivision (a)(1) shall be added to the amount allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5."

Sec. 2.2. G.S. 20-85.1 reads as rewritten:

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

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

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

Sec. 2.3. G.S. 136-44.20 is amended by adding a new subsection to read:

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

PART III.

SALES TAX CHANGES.

Sec. 3.1. The first paragraph of G.S. 105-164.4(1) reads as rewritten:

"(1) At the rate of three percent (3%) of the sales price of each item or article of tangible property when sold at retail in this State, the tax to be computed on total net taxable sales as defined herein but for the purpose of computing the amount due the State each and every taxable retail sale, or retail sales upon which the tax has been collected, or the

amount of tax actually collected, whichever be greater and whether or not erroneously collected, shall be included in the computation of tax due the State. Provided, however, that in the case of the sale of any aircraft, railway locomotive, railway car or the sale of any motor vehicle or boat, the tax shall be only at the rate of two percent (2%) of the sales price, but at no time shall the maximum tax with respect to any one such aircraft, railway locomotive, railway car or ~~motor vehicle or~~ boat, including all accessories attached thereto at the time of delivery thereof to the purchaser, be in excess of ~~three hundred dollars (\$300.00)~~ one thousand five hundred dollars (\$1,500) and at no time shall the maximum tax with respect to a motor vehicle, including all accessories attached when it is delivered to the purchaser, exceed three hundred dollars (\$300.00)."

Sec. 3.2. G.S. 105-164.3 reads as rewritten:

"§ 105-164.3. Definitions.

~~The words, terms and phrases when used in this Article shall have the meanings ascribed to them in this section following definitions apply in this Article, except when the context clearly indicates a different meaning:~~

- (1) 'Business' shall include any activity engaged in by any person or caused to be engaged in by him with the object of gain, profit, benefit or advantage, either direct or indirect. The term 'business' shall not be construed in this Article to include occasional and isolated sales or transactions by a person who does not hold himself out as engaged in business.
- (2) ~~'Secretary' shall mean the Secretary of Revenue of the State of North Carolina.~~ Reserved.
- (3) 'Consumer' shall mean and include every person storing, using or otherwise consuming in this State tangible personal property purchased or received from a retailer either within or without this State.
- (4) 'Cost price' means the actual cost of articles of tangible personal property without any deductions therefrom on account of the cost of materials used, cash discounts, labor or service costs, transportation charges or any expenses whatsoever.
- (5) 'Engaged in business' shall mean maintaining, occupying or using permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, any office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business, for the selling or delivering of tangible personal property for storage, use or consumption in this State, or permanently or temporarily, directly or through a subsidiary, having any representative, agent, salesman, canvasser or solicitor operating in this State in such selling or delivering, and the fact that any corporate retailer, agent or subsidiary engaged in business in this

State may not be legally domesticated or qualified to do business in this State shall be immaterial. It shall also mean the maintaining in this State, either permanently or temporarily, directly or through a subsidiary, tangible personal property for the purpose of lease or rental. It shall also mean making a mail order sale, as defined in subdivision (8a) of this section, if one of the conditions listed in G.S. 105-164.8(b) is met.

- (6) 'Gross sales' means the sum total of all retail sales of tangible personal property as defined herein, whether for cash or credit without allowance for cash discount and without any deduction on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or any other expenses whatsoever and without any deductions of any kind or character except as provided in this Article.
- (7) 'In this (the) State' means within the exterior limits of the State of North Carolina and includes all territory within such limits owned by or ceded to the United States of America.
- ~~(8)~~(7a) 'Lease or rental' means the leasing or renting of tangible personal property and the possession or use thereof by the lessee or ~~rentee~~ renter for a consideration without transfer of the title of such property.
- ~~(8a)~~(8) 'Mail order sale' means a sale of tangible personal property, ordered by mail, telephone, computer link, or other similar method, to a purchaser who is in this State at the time the order is remitted, from a retailer who receives the order in another state and transports the property or causes it to be transported to a person in this State. It is presumed that a resident of this State who remits an order was in this State at the time the order was remitted.
- (8a) 'Manufactured home' means a structure that is designed to be used as a dwelling and:
 - a. Is built on a permanent chassis;
 - b. Is transportable in one or more sections;
 - c. When transported, is at least eight feet wide or forty feet long;
and
 - d. When erected on a site, has at least 320 square feet.
- (8b) 'Motor vehicle' means any vehicle which is self-propelled and designed primarily for use upon the highways, any vehicle which is propelled by electric power obtained from trolley wires but not operated upon rails, and any vehicle designed to run upon the highways which is propelled by a self-propelled vehicle, but shall not include any implement of husbandry, farm tractor, road construction or maintenance machinery or equipment, special mobile equipment as defined in G.S. 20-4.01, ~~or~~ any vehicle designed primarily for use in work off the ~~highway~~. highway, or a manufactured home.

- (9) 'Net taxable sales' shall mean and include the gross retail sales of the business of the retailer taxed under this Article after deducting ~~therefrom~~ exempt sales and nontaxable sales.
- (10) 'Nonresident retail or wholesale merchant' means a person who does not have a place of business in this State, is engaged in the business of acquiring, by purchase, consignment, or otherwise, tangible personal property and selling the property outside the State, and is registered for sales and use tax purposes in a taxing jurisdiction outside the State.
- (11) 'Person' includes any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate or other group, or combination acting as a unit, body politic, or political subdivision, whether public or private or quasi-public and the plural as well as the singular number.
- (12) 'Purchase' means acquired for a consideration whether
- a. ~~Such~~ The acquisition was effected by a transfer of title or possession, or both, or a license to use or consume;
 - b. ~~Such transfer shall have been~~ The transfer was absolute or conditional ~~and by whatever means it shall have been~~ regardless of the means by which it was effected; and
 - c. ~~Such~~ The consideration ~~be is~~ a price or rental in money or by way of exchange or barter.
- It shall also include the procuring of a retailer to erect, install or apply tangible personal property for use in this State.
- (13) 'Retail' shall mean the sale of any tangible personal property in any quantity or quantities for any use or purpose on the part of the purchaser other than for resale.
- (14) 'Retailer' means and includes every person engaged in the business of making sales of tangible personal property at retail, either within or without this State, or peddling the same or soliciting or taking orders for sales, whether for immediate or future delivery, for storage, use or consumption in this State and every manufacturer, producer or contractor engaged in business in this State and selling, delivering, erecting, installing or applying tangible personal property for use in this State notwithstanding that said property may be permanently affixed to a building or realty or other tangible personal property. 'Retailer' also means a person who makes a mail order sale, as defined in ~~subdivision (8a) of~~ this section, if one of the conditions listed in G.S. 105-164.8(b) is met. Provided, however, that when in the opinion of the Secretary it is necessary for the efficient administration of this Article to regard any salesmen, solicitors, representatives, consignees, peddlers, truckers or canvassers as agents of the dealers, distributors, consignors, supervisors, employers or persons under whom they operate or from whom they obtain the tangible personal property sold by them regardless of whether they are making sales on their own

behalf or on behalf of such dealers, distributors, consignors, supervisors, employers or persons, the Secretary may so regard them and may regard the dealers, distributors, consignors, supervisors, employers or persons as 'retailers' for the purpose of this Article.

- (15) 'Sale' or 'selling' shall mean any transfer of title or possession, or both, exchange, barter, lease, license to use or consume, or rental of tangible personal property, conditional or otherwise, in any manner or by any means whatsoever, however effected and by whatever name called, for a consideration paid or to be paid, and includes the fabrication of tangible personal property for consumers by persons engaged in business who furnish either directly or indirectly the materials used in the fabrication work, and the furnishing, preparing, or serving for a consideration of any tangible personal property consumed on the premises of the person furnishing, preparing, or serving such tangible personal property or consumed at the place at which such property is prepared, served or sold. A transaction whereby the possession of the property is transferred but the seller retains title or security for the payment of the price shall be deemed a sale.
- (16) Except as provided in paragraph f., 'sales price' means the total amount for which tangible personal property is sold including charges for any services that go into the fabrication, manufacture or delivery of such tangible personal property and that are a part of the sale valued in money whether paid in money or otherwise and includes any amount for which credit is given to the purchaser by the seller without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest charged, losses or any other expenses whatsoever. Provided, however, that where a manufacturer, producer or contractor erects, installs or affixes tangible personal property upon real property pursuant to a construction or performance-type contract with or for the benefit of the owner of such real property, the sales price shall be the cost of such property to the manufacturer, producer or contractor performing the contract. Provided, further:
- a. The cost for labor or services rendered in erecting, installing or applying property sold when separately charged shall not be included as a part of the 'sales price';
 - b. Finance charges, service charges or interest from credit extended under conditional sales contracts or other conditional contracts providing for deferred payments of the purchase price shall not be considered a part of the 'sales price' when separately charged;
 - c. 'Sales price' shall not include the amount of any tax imposed by the United States upon or with respect to retail sales whether imposed upon the retailer or consumer except that any

manufacturers' or importers' excise tax shall be included in the term.

- d. 'Sales price' shall not include any amounts charged as deposits on beverage containers which are returnable to vendors for reuse and which amounts are refundable or creditable to vendees, whether or not said deposits are separately charged.
- e. 'Sales price' shall not include amounts charged as deposits on automotive, industrial, marine and farm replacement parts which are returnable to vendors for rebuilding or remanufacturing and which amounts are refundable or creditable to vendees, whether or not such deposits are separately charged. This subsection shall not be construed to include tires and batteries.
- f. The sales price of tangible personal property sold through a coin-operated vending machine, other than closed-container soft drinks subject to excise tax under Article 2B of this Chapter or tobacco products, is considered to be fifty percent (50%) of the total amount for which the property is sold in the vending machine.

(16a) 'Secretary' means the Secretary of the North Carolina Department of Revenue.

(17) 'Storage' means and includes any keeping or retention in this State for any purpose by the purchaser thereof, except sale in the regular course of business, of tangible personal property purchased from a retailer.

(18) 'Use' means and includes the exercise of any right or power or dominion whatsoever over tangible personal property by a purchaser thereof and includes, but is not limited to, any withdrawal from storage, installation, affixation to real or personal property, exhaustion or consumption of tangible personal property by the owner or purchaser thereof, but shall not include the sale of tangible personal property in the regular course of business.

(19) 'Storage' and 'Use'; Exclusion. – 'Storage' and 'use' do not include the keeping, retaining or exercising of any right or power over tangible personal property by the purchaser thereof for the original purpose of subsequently transporting it outside the State for use by said purchaser thereafter solely outside the State and which purpose is consummated, or for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into, other tangible personal property to be transported outside the State and thereafter used by the purchaser thereof solely outside the State.

(20) 'Tangible personal property' means and includes personal property which may be seen, weighed, measured, felt or touched or is in any other manner perceptible to the senses. The term 'tangible personal property' shall not include stocks, bonds, notes, insurance or other

obligations or securities, nor shall it include water delivered by or through main lines or pipes either for commercial or domestic use or consumption. The term includes all 'canned' or prewritten computer programs, either in the form of written procedures or in the form of storage media on which or in which the program is recorded, held, or existing for general or repeated sale, lease, or license to use or consume. The term does not include the design, development, writing, translation, fabrication, lease, license to use or consume, or transfer for a consideration of title or possession of a custom computer program, other than a basic operational program, either in the form of written procedures or in the form of storage media on which or in which the program is recorded, or any required documentation or manuals designed to facilitate the use of the custom computer program.

As used in this subdivision:

- a. 'Basic operational program' or 'control program' means a computer program that is fundamental and necessary to the functioning of a computer. A basic operational program is that part of an operating system, including supervisors, monitors, executives, and control or master programs, which consists of the control program elements of that system. A control or master program, as opposed to a processing program, controls the operation of a computer by managing the allocation of all system resources, including the central processing unit, main storage, input/output devices, and processing programs. A processing program is used to develop and implement the specific applications the computer is to perform.
 - b. 'Computer program' means the complete plan for the solution of a problem, such as the complete sequence of automatic data-processing equipment instructions necessary to solve a problem, and includes both systems and application programs and subdivisions, such as assemblers, compilers, routines, generators, and utility programs.
 - c. 'Custom computer program' means a computer program prepared to the special order of the customer. Custom computer programs include one of the following elements:
 1. Preparation or selection of the programs for the customer's use requires an analysis of the customer's requirements by the vendor; or
 2. The program requires adaptation by the vendor to be used in a particular make and model of computer utilizing a specified output device.
 - d. 'Storage media' means punched cards, tapes, disks, diskettes, or drums.
- (21) 'Taxpayer' means any person liable for taxes under this Article.

- (22) 'Use tax' means and includes the tax imposed by Part 3 in Division II of this Article.
- (23) 'Wholesale merchant' shall mean every person who engages in the business of buying or manufacturing any tangible personal property and selling same to registered retailers, wholesalers and nonresident retail or wholesale merchants for resale. It shall also include persons making sales of tangible personal property which are defined herein as wholesale sales. For the purposes of this Article any person, firm, corporation, estate or trust engaged in the business of manufacturing, producing, processing or blending any articles of commerce and maintaining a store or stores, warehouse or warehouses, or any other place or places, separate and apart from the place of manufacture or production, for the sale or distribution of its products (other than bakery products) to other manufacturers or producers, wholesale or retail merchants, for the purpose of resale shall be deemed a 'wholesale merchant.'
- (24) 'Wholesale sale' shall mean a sale of tangible personal property by a wholesale merchant to a manufacturer, or registered jobber or dealer, or registered wholesale or retail merchant, for the purpose of resale but does not include a sale to users or consumers not for resale.
- (25) 'Utility' means an electric power company, a gas company, or a telephone company that is subject to a privilege tax based on gross receipts under G.S. 105-116 or 105-120, a business entity that provides local, toll or private telecommunications service as defined by G.S. 105-120(a) or a municipality that sells electric power, other than a municipality whose only wholesale supplier of electric power is a federal agency and who is required by a contract with that federal agency to make payments in lieu of taxes."

Sec. 3.3. G.S. 105-164.4 reads as rewritten:

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

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

- (1) ~~At the rate of three percent (3%) of the sales price of each item or article of tangible property when sold at retail in this State, the tax to be computed on total net taxable sales as defined herein but for the purpose of computing the amount due the State each and every taxable retail sale, or retail sales upon which the tax has been collected, or the amount of tax actually collected, whichever be greater and whether or not erroneously collected, shall be included in the computation of tax due the State. Provided, however, that in the case of the sale of any~~

~~aircraft, railway locomotive, railway car or the sale of any motor vehicle or boat, the tax shall be only at the rate of two percent (2%) of the sales price, but at no time shall the maximum tax with respect to any one such aircraft, railway locomotive, railway car or motor vehicle or boat, including all accessories attached thereto at the time of delivery thereof to the purchaser, be in excess of three hundred dollars (\$300.00).~~

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

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

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

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

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

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

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

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

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

(1b) At the rate of two percent (2%) of the sales price of each aircraft, boat, railway car, or locomotive sold at retail, including all accessories attached to the item when it is delivered to the purchaser.

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

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

- a. Horses or mules by whomsoever sold.
- b. Semen to be used in the artificial insemination of animals.
- c. Sales of fuel, other than electricity or piped natural gas, to farmers to be used by them for any farm purposes other than preparing food, heating dwellings and other household purposes. The quantity of fuel purchased or used at any one time shall not in any manner be a determinative factor as to whether any sale or use of fuel is or is not subject to the one percent (1%) rate of tax imposed herein.
- d. Sales of fuel, other than electricity or piped natural gas, to manufacturing industries and manufacturing plants for use in connection with the operation of such industries and plants other than sales of fuels to be used for residential heating purposes. The quantity of fuel purchased used at any one time shall not in any manner be a determinative factor as to whether any sale or use of fuel is or is not subject to the one percent (1%) rate of tax imposed herein.
- e. Sales of fuel, other than electricity or piped natural gas, to commercial laundries or to pressing and dry-cleaning establishments for use in machinery used in the direct performance of the laundering or the pressing and cleaning service.

f. Sales to freezer locker plants of wrapping paper, cartons and supplies consumed directly in the operation of such plant.

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

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

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

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

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

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

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

~~h-b.~~ Sales of mill machinery or mill machinery parts and accessories to manufacturing industries and plants, and sales to contractors and subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with manufacturing industries and plants, and sales to subcontractors purchasing mill machinery or mill machinery parts and accessories for use by them in the performance of contracts with general contractors who have contracts with manufacturing industries and plants. As used in this paragraph, the term 'manufacturing industries and plants'

does not include delicatessens, cafes, cafeterias, restaurants, and other similar retailers that are principally engaged in the retail sale of foods prepared by them for consumption on or off their premises.

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

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

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

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

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

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

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

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

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

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

gross receipts derived from the lease or rental of tangible personal property by a person who is engaged in the business of leasing or renting tangible personal property, or is a retailer and leases or rents property of the type sold by the retailer. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a sale of the property that is leased or rented. A person who leases or rents property shall also collect the tax imposed by this section on the separate retail sale of the property.

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

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

- (4) Every person, firm or corporation engaged in the business of operating a pressing club, cleaning plant, hat-blocking establishment, dry-cleaning plant, laundry (including wet or damp wash laundries and businesses known as laundrettes and launderalls), or any ~~similar type~~ similar business, or engaged in the business of renting clean linen or towels or wearing apparel, or any ~~similar type~~ similar business, or engaged in the business of soliciting cleaning, pressing, hat blocking, laundering or rental business for any of the aforementioned businesses, shall be considered 'retailers' for the purposes of this Article. There is hereby levied upon every such person, firm or corporation a tax of three percent (3%) of the gross receipts derived from services rendered in engaging in any of the occupations or businesses named in this subdivision, and every person, firm or corporation subject to the provisions of this subdivision shall register and secure a license in the manner hereinafter provided in this section, and, insofar as practicable, all other provisions of this Article shall be applicable with respect to the tax herein provided for. The tax imposed by this subdivision does not apply to receipts derived from coin or token-operated washing machines, extractors, and dryers. The taxes levied in this subdivision are additional privilege or license taxes for the privilege of engaging in

the occupations or businesses named herein. Any person, firm or corporation engaged in cleaning, pressing, hat blocking, laundering for, or supplying clean linen or towels or wearing apparel to, another person, firm or corporation engaged in soliciting shall not be required to pay the three percent (3%) tax on its gross receipts derived through such solicitor, if the soliciting person, firm or corporation has registered with the Department, secured the license hereinafter required and has paid the tax at the rate of three percent (3%) of the total gross receipts derived from business solicited.

- (4a) At the rate of three percent (3%) of the gross receipts derived by a utility from sales of electricity, piped natural gas, or local telecommunications service as defined by G.S. 105-120(a). A person who operates a utility is considered a retailer under this Article.
- (4b) A person who sells tangible personal property at a flea market, other than his own household personal property, is considered a retailer under this Article. A tax is levied on that person at the rate of three percent (3%) of the sales price of each article sold by him at the flea market. A person who leases or rents space at a flea market may not lease or rent this space unless the retailer requesting to rent or lease the space furnishes evidence that he has obtained the license required by this Article. A person who leases or rents space at a flea market shall keep records of retailers to whom he has leased or rented space at the market. As used in this subdivision, the term 'flea market' means a place where space is rented to a person for the purpose of selling tangible personal property.
- (4c) At the rate of six and one-half percent (6 1/2%) of the gross receipts derived from providing toll telecommunications services or private telecommunications services as defined by G.S. 105-120(a) that both originate from and terminate in the State which are not subject to the privilege tax under G.S. 105-120. Any business entity that provides the service outlined above is considered a retailer under this Article. This subdivision shall not apply to telephone membership corporations as described in Chapter 117 of the General Statutes.

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

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

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

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

Sec. 3.4. G.S. 105-164.6 reads as rewritten:

"§ 105-164.6. Imposition of tax.

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

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

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

- (1) At the applicable percentage rate of the cost price of each item or article of tangible personal property that is stored, used, or consumed

in this State. The applicable percentage rate is the rate and the maximum tax, if any, that applies to a sale of the property that is stored, used, or consumed.

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

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

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

~~from such purchasers. The Commissioner of Motor Vehicles shall remit use taxes collected by him under this subdivision to the Secretary.~~

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

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

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

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

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

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

~~(7)(f) Every retailer engaged in business in this State selling or delivering tangible personal property for storage, use or consumption in this State shall immediately after July 1, 1979, apply for and obtain from the Secretary upon the payment of the sum of five dollars (\$5.00) a license to engage in and conduct such business upon the condition that such person shall pay the tax accruing to the State of North Carolina under the provisions of this Article, and he shall thereby be duly licensed and registered to engage in and conduct such business. Except as hereinafter provided, a license issued under this subsection shall be a continuing license until revoked for failure to comply with the provisions of this Article. However, any person who has heretofore applied for and~~

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

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

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

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

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

Sec. 3.5. G.S. 105-164.13(16) reads as rewritten:

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

Sec. 3.6. G.S. 105-164.13(32) reads as rewritten:

"(32) Sales of motor vehicles, the separate sales of a motor vehicle body and a motor vehicle chassis when the body is to be mounted on the chassis, and the sale of a body mounted on a motor vehicle chassis that temporarily enters the State so the manufacturer of the body can mount the body on the chassis. ~~vehicles, as defined in G.S. 105-164.3(8a), to nonresident purchasers for immediate transportation to and use in another state in which such vehicles are required to be registered, provided the seller obtains from the purchaser and furnishes to the Secretary of Revenue an affidavit stating the name and address of the purchaser, the state in which the vehicle will be registered and operated, the make, model, and serial number of the vehicle, and such other information as the Secretary may require, and provided further that no exemption shall be allowed unless the affidavit is filed with the seller's sales and use tax report for the month during which the sale is made and such report is timely filed. For sales made by a seller who is not a retailer, this exemption applies if the purchaser furnishes the Secretary an affidavit containing the information otherwise required from a retailer within 45 days of the date."~~

Sec. 3.7. G.S. 105-467 reads as rewritten:

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

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

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

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

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

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

Sec. 3.8. G.S. 105-468 reads as rewritten:

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

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

property would be taxed by the State at a rate of other than three percent (3%) if it were taxable under G.S. 105-164.6.

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

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

Sec. 3.9. Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, is amended as follows:

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

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

Sec. 3.10. Section 5 of Chapter 1096 of the 1967 Session Laws, as amended, is amended in the first sentence by deleting the phrase "when, if the property were subject to the use tax imposed by G.S. 105-164.6, such property would be taxed by the State of North Carolina at a rate less than three percent (3%)" and substituting the phrase "when the property would be taxable by the State at a rate of other than three percent (3%) if it were taxable under G.S. 105-164.6".

PART IV.

HIGHWAY USE TAX.

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

"ARTICLE 5A.

"North Carolina Highway Use Tax.

"§ 105-165. Definitions.

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

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

"§ 105-166. Highway use tax imposed.

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

"§ 105-167. Rate of tax.

(a) Amount. The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S. 105-168. The tax may not be less than forty dollars (\$40.00) for each motor vehicle for which a certificate of title is issued, unless the issuance of a title for the vehicle is exempt from tax under G.S. 105-170(a). The tax may not be more than one thousand dollars (\$1,000) for each motor vehicle for which a certificate of title is issued.

(b) Retail Value. The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a retailer is the sales price of the motor vehicle, including all accessories attached to the vehicle when it is delivered to the purchaser, less the amount of any allowance given by the retailer for a motor vehicle taken in trade as a partial payment for the purchased motor vehicle. The retail value of a motor vehicle for which a certificate of title is issued because of a sale of the motor vehicle by a seller who is not a retailer is the value of the vehicle set in a schedule of values adopted by the Commissioner, less the amount of any allowance given by the seller for a motor vehicle taken in trade as a partial payment for the purchased motor vehicle. The retail value of a motor vehicle for which a certificate of title is issued because of a reason other than the sale of the motor vehicle is the value of the vehicle set in a schedule of values adopted by the Commissioner.

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

"§ 105-168. Payment of tax.

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

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

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

(a) Election. A retailer who is engaged in the business of leasing or renting motor vehicles may elect not to pay the tax imposed by this Article at the rate set in G.S. 105-167 when applying for a certificate of title for a motor vehicle purchased by the retailer for lease or rental. A retailer who makes this election shall pay a tax on the gross receipts of the lease or rental of the vehicle. Like the tax imposed by G.S. 105-167, this alternate tax is a tax on the privilege of using the highways of this State. The tax is imposed on a retailer, but is to be added to the lease or rental price of a motor vehicle and thereby be paid by the person who leases or rents the vehicle.

(b) Rate. The tax rate on the gross receipts of the lease or rental of a motor vehicle is eight percent (8%), unless the vehicle is leased or rented to the same person for a period of more than 90 continuous days. In that circumstance, the tax is eight percent (8%) for the first 90 days the vehicle is leased or rented to the same person and is three percent (3%) for the remainder of the period during which the vehicle is leased or rented to that person. The maximum tax in G.S. 105-167(a) applies to the lease or rental of a motor vehicle when the vehicle is leased or rented to the same person for more than 90 continuous days. Tax paid by a person from the first day of a continuous lease or rental period applies toward the maximum tax.

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

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

"§ 105-170. Exemptions from highway use tax.

(a) Full Exemptions. The tax imposed by this Article does not apply when a certificate of title is issued as the result of the transfer of a motor vehicle to the insurer of the vehicle under G.S. 20-109.1 because the vehicle is a salvage vehicle.

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

- (1) By a gift between a husband and wife or a parent and child.
- (2) By will or intestacy.
- (3) By a distribution of marital property as a result of a divorce.
- (4) To one of the following for the purpose of resale:
 - a. A motor vehicle retailer.
 - b. A secured party who has filed a security interest in the motor vehicle with the Department of the Secretary of State.
- (5) To a partnership or corporation as an incident to the formation of the partnership or corporation and no gain or loss arises on the transfer under section 351 or section 721 of the Internal Revenue Code, or to a corporation by merger or consolidation in accordance with G.S. 55-110.
- (6) To the same owner to reflect a change in the owner's name.

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

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

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

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

When a purchaser of a motor vehicle returns the motor vehicle to the seller of the motor vehicle within 90 days after the purchase and receives a vehicle replacement for the returned vehicle or a refund of the price paid the seller, whether from the seller or the manufacturer of the vehicle, the purchaser may obtain a refund of the privilege tax paid on the certificate of title issued for the returned motor vehicle, less the minimum tax of forty dollars (\$40.00).

To obtain a refund, the purchaser must apply to the Division for a refund within 30 days after receiving the replacement vehicle or refund of the purchase price. The application must be made on a form prescribed by the Commission and must be supported by documentation from the seller of the returned vehicle.

"§ 105-173. Disposition of tax proceeds.

Taxes collected under this Article at the rate of eight percent (8%) shall be deposited in the General Fund. Taxes collected under this Article at the rate of three percent (3%) shall be deposited in the North Carolina Highway Trust Fund. In each fiscal year the

State Treasurer shall transfer the sum of one hundred seventy million dollars (\$170,000,000) of the taxes deposited in the Trust Fund to the General Fund by transferring one-fourth of this amount at the end of each quarter in the fiscal year.

"§ 105-174. Penalties and remedies.

The penalties that apply to a failure to pay State sales and use taxes apply to a failure to pay the tax levied by this Article. In addition, if a check offered in payment of the tax imposed by this Article is returned unpaid and the tax for which the check was offered is not paid within 30 days after the Commissioner demands its payment, the Commissioner may revoke the registration plate of the vehicle for which a certificate of title was issued when the check was offered.

In applying the provisions of Article 9 of this Chapter to the tax levied by this Article, the Commissioner shall exercise the power conferred upon the Secretary. A taxpayer who appeals the tax imposed by this Article shall appeal to the Commissioner or the Commissioner's designee instead of to the Secretary."

Sec. 4.2. Effective July 1, 1993, G.S. 105-167(a), as enacted by this act, reads as rewritten:

"(a) Amount. The rate of the use tax imposed by this Article is three percent (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as provided in G.S. 105-168. The tax may not be less than forty dollars (\$40.00) for each motor vehicle for which a certificate of title is issued, unless the issuance of a title for the vehicle is exempt from tax under G.S. 105-170(a). The tax may not be more than ~~one thousand dollars (\$1,000)~~ one thousand five hundred dollars (\$1,500) for each motor vehicle for which a certificate of title is issued."

Sec. 4.3. Notwithstanding G.S. 105-173, as enacted by this act, in fiscal year 1989-90, the State Treasurer shall transfer from the Highway Trust Fund to the General Fund, the sum of two hundred seventy-nine million four hundred thousand dollars (\$279,400,000) of the tax revenue deposited in the Trust Fund under that statute by transferring one-third of this amount at the end of the second, third, and fourth quarters in the fiscal year. In addition, in fiscal year 1990-91, the State Treasurer shall transfer from the Highway Trust Fund to the General Fund the sum of three hundred fifty-six million dollars (\$356,000,000) of the tax revenue deposited in the Trust Fund under G.S. 105-173 by transferring one-fourth of this amount at the end of each quarter in the fiscal year. The transfers required under this section are in lieu of the transfers that would otherwise be made under G.S. 105-173.

PART V.

MOTOR FUEL TAX INCREASE.

Sec. 5.1. G.S. 105-434(a) reads as rewritten:

"(a) Tax. – An excise tax is levied on motor fuel sold, distributed, or used by a distributor within this State at ~~the rate of fourteen cents (14¢) per gallon plus three percent (3%) of the average wholesale price of motor fuel, as determined semiannually by the Secretary of Revenue from a flat rate of seventeen cents (17¢) per gallon, plus a variable rate of either three and one-half cents (3 1/2¢) per gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is~~

greater. The Secretary of Revenue shall semiannually determine the average wholesale price of motor fuel using information on refiner and gas plant operator sales prices of finished motor gasoline and No. 2 diesel fuel for resale, published by the United States Department of Energy in the 'Monthly Energy Review,' or on equivalent data. The Secretary shall determine the average wholesale price of motor fuel by computing the average sales price of finished motor gasoline for the base period, computing the average sales price for No. 2 diesel fuel for the base period, and then computing a weighted average of the results of the first two computations based on the proportion of tax collected under this Article on motor fuel and Article 36A on fuel for the base period. The Secretary shall notify affected taxpayers of the tax rate to be in effect for each six-month period beginning January 1 and July 1.

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

Sec. 5.2. G.S. 105-446 reads as rewritten:

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

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

Sec. 5.3. G.S. 105-446.1 reads as rewritten:

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

~~The following entities shall be entitled to reimbursement for the tax levied by G.S. 105-434 upon filing a statement in writing with the Secretary of Revenue, which statement shall be made upon the oath or affirmation of the chief executive officer of said entity, showing the number of gallons of fuel purchased and used by said entity on which the tax levied by G.S. 105-434 has been paid: the Board of Transportation, counties, municipal corporations, volunteer fire departments, county fire departments, volunteer rescue squads, and "sheltered workshop" organizations recognized and~~

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

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

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

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

Sec. 5.4. G.S. 105-446.3 reads as rewritten:

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

(a) Any person, association, firm or corporation, who shall purchase any motor fuels, as defined in this Article, for the purpose of use, and the same is actually used, in the operation of motor buses transporting fare paying passengers, in connection with a city transit system or in the operation of a taxicab transporting fare paying passengers, both as hereinafter defined in subsection (b) of this section, or in the operation, by

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

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

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

Sec. 5.5. G.S. 105-446.5 reads as rewritten:

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

(a) Refund.

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

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

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

Sec. 5.6. G.S. 105-446.6 reads as rewritten:

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

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

Sec. 5.7. G.S. 105-449.39 reads as rewritten:

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

Every motor carrier subject to the tax levied by this Article is entitled to a credit for tax paid by the carrier on fuel purchased in the State. ~~The credit shall be allowed at a rate equal to fourteen cents (14¢) per gallon plus the wholesale~~ at a rate equal to the flat cents-per-gallon rate plus the variable cents-per-gallon rate of tax in effect during the quarter for which the credit is claimed. ~~Evidence of the payment of such tax in such form as may be required by, or is satisfactory to, the Secretary shall be furnished by each such carrier claiming the credit herein allowed. When the amount of the credit herein provided to which any motor carrier is entitled for any quarter exceeds the amount of the tax for which such carrier is liable for the same quarter, such excess may under regulations of the Secretary be allowed as a credit on the tax for which such carrier would be otherwise liable for another quarter or quarters; or upon application within 180 days from the end of any quarter, duly verified and presented, in accordance with regulations promulgated by the Secretary and supported by such evidence as may be satisfactory to the Secretary, such excess may be refunded to said motor carrier.~~

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

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

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

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

Sec. 5.8. August 1, 1989, Inventory of Motor Fuel. Every distributor of motor fuel, both at wholesale and at retail, must inventory all motor fuel on hand or in his possession as of 12:01 a.m., August 1, 1989, and, on or before September 1, 1989, must report to the Secretary of Revenue the amount of the motor fuel. When filing the report, the distributor must remit to the Secretary of Revenue an additional tax on the motor fuel of three cents (3¢) per gallon plus an amount equal to the increase in the tax based on the increase in the variable cents-per-gallon tax effective August 1, 1989. The report required must be in a form prescribed by the Secretary.

Sec. 5.9. August 1, 1989, Inventory of Special Fuel. Every supplier or reseller of special fuel must inventory all special fuel on hand or in his possession as of 12:01 a.m., August 1, 1989, and, on or before September 1, 1989, must report to the Secretary of Revenue the amount of the special fuel. When filing the report, the supplier or reseller must remit to the Secretary of Revenue an additional tax on the special fuel of three cents (3¢) per gallon plus an amount equal to the increase in the tax based on the increase in the variable cents-per-gallon tax effective August 1, 1989. The report required must be in a form prescribed by the Secretary.

Sec. 5.10. Motor Carrier Refund and Report. Notwithstanding G.S. 105-449.39 to the contrary, a motor carrier that as of 12:01 a.m. on August 1, 1989, has on hand or in its possession motor fuel or special fuel upon which it has paid the tax in effect on July 31, 1989, is allowed a credit of only the amount of tax paid on the fuel when filing the report required by G.S. 105-449.45. Notwithstanding G.S. 105-449.45, a motor carrier must file a report in accordance with that section for the period July 1, 1989, through July 31, 1989, and for the period August 1, 1989, through September 30, 1989.

Sec. 5.11. Annual Refund Rate. Notwithstanding G.S. 105-446, 105-446.5, and 105-449.24 to the contrary, the annual refund rate for tax paid on motor fuel or special fuel for calendar year 1989 is at a rate equal to the weighted average of the two flat cents-per-gallon rates plus the weighted average of the two variable cents-per-gallon rates in effect during that year, less one cent (1¢) per gallon.

Sec. 5.12. Quarterly Refund Rate. Notwithstanding G.S. 105-446.1, 105-446.3, and 105-449.24 to the contrary, the entities eligible under those statutes for a refund of tax paid on motor fuel or special fuel are entitled to a refund at the rate of

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

Sec. 5.13. Notwithstanding G.S. 105-449.39, as amended by this Part, until January 1, 1990, an application for a refund of a credit under that statute must be made within 180 days of the end of the quarter for which the refund is due.

Sec. 5.14. Section 2 of Chapter 7 of the 1989 Session Laws is repealed.

PART VI.

REPEAL ROAD TAX REGISTRATION FEE.

Sec. 6.1. G.S. 20-88.01 reads as rewritten:

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

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

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

~~This section does not apply to vehicles owned by the United States, the State or its political subdivisions, special mobile equipment as defined in G.S. 20-4.01(44), and vehicles owned by nonprofit religious, educational, charitable, or benevolent organizations. The Secretary of Revenue may notify the Commissioner of those motor vehicles that are registered or are required to be registered under Article 36B of Chapter 105 and as appropriate, whose owners or lessees are not in compliance with Article 36A or 36B of Chapter 105. When notified, the Commissioner shall withhold or revoke the registration plate for the vehicle.~~

Sec. 6.2. G.S. 105-449.47 reads as rewritten:

"§ 105-449.47. Registration of vehicles.

~~A motor carrier may not operate or cause to be operated in this State any vehicle listed in the definition of motor carrier unless the motor carrier has registered the vehicle for purposes of the tax imposed by this Article with the Commissioner of Motor Vehicles or the Secretary, as appropriate Secretary. All vehicles required to be registered~~

~~under this section that are registered in this State under G.S. 20-87 or G.S. 20-88 shall be registered with the Commissioner of Motor Vehicles pursuant to G.S. 20-88.01 for the purposes of the tax imposed by this Article. All other vehicles required to be registered under this section shall be registered with the Secretary.~~

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

Sec. 6.3. Section 2 of Chapter 667 of the 1989 Session Laws is repealed.

PART VII.

ESTIMATED INCOME TAX AMENDMENTS.

Sec. 7.1. G.S. 105-163.15 reads as rewritten:

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

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

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

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

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

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

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

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

In the case of any required installment, the annualized income installment is the excess, if any, of (i) an amount equal to the applicable percentage of the tax for the taxable year computed by placing on an annualized basis the taxable income for months in the taxable year ending before the due date for the installment, over (ii) the aggregate amount of any prior required installments for the taxable year. The taxable income shall be placed on an annualized basis under rules prescribed by the Secretary. The applicable percentages for the required installments are as follows:

- (1) First installment – ~~twenty percent (20%)~~; twenty-two and one-half percent (22.5%);
- (2) Second installment – ~~forty percent (40%)~~; forty-five percent (45%);
- (3) Third installment – ~~sixty percent (60%)~~; sixty-seven and one-half percent (67.5%); and
- (4) Fourth installment – ~~eighty percent (80%)~~; ninety percent (90%).

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

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

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

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

- (1) Sixty-six and two-thirds percent (66 2/3%) of the tax shown on the return for the taxable year, or, if no return is filed, sixty-six and two-thirds percent (66 2/3%) of the tax for that year; or
- (2) One hundred percent (100%) of the tax shown on the return of the individual for the preceding taxable year, if the preceding taxable year was a taxable year of 12 months and the individual filed a return for that year.

An individual is a farmer or fisherman for any taxable year if the individual's gross income from farming or fishing, including oyster farming, for the taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total gross income from all sources for the taxable year, or the individual's gross income from farming or fishing, including oyster farming, shown on the return of the individual for the preceding taxable year is at least sixty-six and two-thirds percent (66 2/3%) of the total gross income from all sources shown on the return.

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

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

PART VIII.

EFFECTIVE DATES AND SUNSET.

Sec. 8.1. The prohibition imposed by G.S. 136-44.7(b) against changing the order of unpaved roads set out in a published list of the top 10 roads to be paved in a county applies to lists adopted for fiscal years beginning with the 1988-89 fiscal year.

Sec. 8.2. This act does not affect the rights or liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed by this act before its amendment or repeal; nor does it affect the right to any refund or credit of a tax that would otherwise have been available under the amended or repealed statute before its amendment or repeal.

Sec. 8.3. Section 3.1 of Part III shall become effective August 1, 1989. The remaining sections in Part III shall become effective October 1, 1989. Part IV of this act shall become effective October 1, 1989, except for Section 4.2, which shall become effective July 1, 1993. Part VI of this act shall become effective January 1, 1990. Part VII of this act is effective for taxable years beginning on and after January 1, 1990. The remaining Parts of this act shall become effective August 1, 1989. Sections 3.3 through 3.6 and Part IV shall apply to sales of motor vehicles made on or after October 1, 1989, except sales of motor vehicles made on or after that date pursuant to a written contract

of sale entered into before that date, and shall apply to leases and rental agreements entered or renewed on or after that date.

Sec. 8.4. When contracts for all projects specified in Article 14 of Chapter 136 of the General Statutes have been let and sufficient revenue has been accumulated to pay the contracts, the Secretary of Transportation shall certify this occurrence by letter to the Speaker of the House of Representatives, the President Pro Tempore of the Senate, and the Secretary of State. The changes below shall become effective on the first day of the calendar quarter following the date the Secretary sends the letter, unless there is less than 30 days between the date the letter is sent and the first day of the following quarter. In that circumstance, the changes shall become effective on the first day of the second calendar quarter following the date the Secretary sends the letter.

- (1) Article 14 of Chapter 136 of the General Statutes is repealed.
- (2) Article 12E of Chapter 120 of the General Statutes is repealed.
- (3) G.S. 105-445 reads as rewritten:

"§ 105-445. Application of proceeds of gasoline tax.

~~Seventy five percent (75%) of the The revenue collected under this Article shall be credited to the Highway Fund Fund. and the remaining twenty five percent (25%) shall be credited to the Highway Trust Fund. A proportionate share of a refund allowed under this Article shall be charged to the Highway Fund and the Highway Trust Fund so that seventy five percent (75%) of the amount of a refund is charged to the Highway Fund and twenty five percent (25%) is charged to the Highway Trust Fund."~~

- (4) G.S. 105-449.16(b) reads as rewritten:

~~"(b) The same percentage amounts of revenue collected under this Article shall be credited to the Highway Fund Fund. and to the Highway Trust Fund as are credited to those Funds under G.S. 105 445, and the same percentage amounts of refunds allowed under this Article shall be charged to the Highway Fund and to the Highway Trust Fund as are charged to those Funds under that statute."~~

- (5) G.S. 105-449.43 reads as rewritten:

"§ 105-449.43. Application of tax proceeds.

~~The same percentage amounts of revenue collected under this Article shall be credited to the Highway Fund Fund. and to the Highway Trust Fund as are credited to those Funds under G.S. 105 445, and the same percentage amounts of refunds allowed under this Article shall be charged to the Highway Fund and to the Highway Trust Fund as are charged to those Funds under that statute."~~

- (6) G.S. 20-85 reads as rewritten:

"§ 20-85. Schedule of fees.

~~(a) Except as provided in G.S. 20-68, the following fees concerning a certificate of title for a motor vehicle and registration of a motor vehicle shall be paid to the Division. These fees are in addition to the tax imposed by Article 5A of Chapter 105 of the General Statutes.~~

- (1) Each application for certificate of title ~~\$35.00~~ \$10.00
- (2) Each application for duplicate

- or corrected certificate of title..... 10.00
- (3) Each application of reposessor for certificate of title 10.00
- (4) Each transfer of registration 10.00
- (5) Each set of replacement registration plates 10.00
- (6) Each application for duplicate registration certificate..... 10.00
- (7) Each application for recording supplementary lien..... 10.00
- (8) Each application for removing a lien from a certificate of title..... 10.00.

~~(b) Six sevenths of the revenue collected under subdivision (a)(1) of this section and all of the revenue collected under the other subdivisions in subsection (a) shall be credited to the North Carolina Highway Trust Fund; the remaining one seventh of the revenue collected under subdivision (a)(1) shall be credited to the Highway Fund. One half of the amount credited to the Trust Fund under subdivision (a)(1) shall be added to the amount allocated for secondary roads under G.S. 136-176 and used in accordance with G.S. 136-44.5."~~

(7) G.S. 20-85.1(b) reads as rewritten:

"(b) The Commissioner and the employees of the Division designated by the Commissioner may prepare and deliver upon request a certificate of title, charging a fee of ~~fifty dollars (\$50.00)~~ twenty-five dollars (\$25.00) for one-day title service, in lieu of the title fee required by G.S. ~~20-85(a)~~ 20-85. The fee for one-day title service must be paid by cash or by certified check."

(8) G.S. 105-164.4(a)(1a) reads as rewritten:

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

(9) G.S. 105-164.13(32) reads as rewritten:

"(32) ~~Sales of motor vehicles, the~~ The separate sales of a motor vehicle body and a motor vehicle chassis when the body is to be mounted on the chassis, and the sale of a body mounted on a motor vehicle chassis that temporarily enters the State so the manufacturer of the body can mount the body on the chassis."

(10) Article 5A of Chapter 105 of the General Statutes is repealed.

(11) The first sentence of G.S. 105-434(a) reads as rewritten:

"An excise tax is levied on motor fuel sold, distributed, or used by a distributor within this State at a flat rate of ~~seventeen cents (17¢)~~ fourteen cents (14¢) per gallon, plus a variable rate of ~~either three and one half cents (3 1/2¢) per gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base~~

period, whichever is greater, three percent of the average wholesale price of motor fuel for the applicable base period."

In the General Assembly read three times and ratified this the 27th day of July, 1989.