

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

**SESSION LAW 2009-527
HOUSE BILL 148**

AN ACT TO ESTABLISH A CONGESTION RELIEF AND INTERMODAL TRANSPORTATION 21ST CENTURY FUND; TO PROVIDE FOR ALLOCATION OF THOSE FUNDS TO: (1) LOCAL GOVERNMENTS AND TRANSPORTATION AUTHORITIES FOR PUBLIC TRANSPORTATION PURPOSES, (2) SHORT-LINE RAILROADS, FOR ASSISTANCE IN MAINTAINING AND EXPANDING FREIGHT SERVICE STATEWIDE, (3) RAILROADS FOR INTERMODAL FACILITIES, MULTIMODAL FACILITIES, AND INLAND PORTS, (4) MAKE CAPITAL IMPROVEMENTS ON RAIL LINES TO ALLOW IMPROVED FREIGHT SERVICE TO THE PORTS AND MILITARY INSTALLATIONS, (5) EXPAND INTERCITY PASSENGER RAIL SERVICE; TO EXTEND LEVELS OF LOCAL TRANSIT FUNDING AUTHORIZATION TO THREE URBAN REGIONS; AND TO ALLOW OTHER LOCAL GOVERNMENTS OPTIONS FOR LOCAL TRANSIT FUNDING.

The General Assembly of North Carolina enacts:

FUND ESTABLISHED

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

"Article 19.

"Congestion Relief and Intermodal 21st Century Transportation Fund.

"§ 136-250. Congestion Relief and Intermodal Transportation 21st Century Fund.

There is established in the State treasury the Congestion Relief and Intermodal Transportation 21st Century Fund, hereinafter referred to as the Fund. The Fund shall consist of all revenues appropriated and allocated to it. Interest on earnings of the Fund shall remain within the Fund.

"§ 136-251. Findings of fact.

The General Assembly finds that:

- (1) Increased use of rail for transport of freight will reduce highway congestion as well as allow economic expansion in a way that lessens the impact on the State highway system.
- (2) Public transportation, in addition to a program of urban loops and toll roads, will enable North Carolina to have a balanced 21st century transportation system.
- (3) As part of its initial program of internal improvements, the State capitalized the North Carolina Railroad in the 1840s and invested in other railroads, and those internal improvements led to North Carolina's rapid economic development. The North Carolina Railroad, with a 317-mile corridor from Charlotte to Morehead City, is still owned by the State.
- (4) Improved rail facilities and restoration of abandoned rail lines can allow increased access to the North Carolina State ports and military installations located within the State.
- (5) Session Law 2005-222 found that expanding and upgrading passenger, freight, commuter, and short-line rail service is important to the economy of North Carolina; and provided that the State would seek to provide matching funds partly so it can leverage the maximum federal and private participation to fund needed rail initiatives, such as the restoration of the rail corridor from Wallace to Castle Hayne and a rail connection between north-south and east-west routes in the vicinity of Pembroke.



- (6) Rail freight plays a vital role in economic development throughout the State. Intermodal service depends on partnerships with railroads, trucking companies, seaports, and others in the transportation logistics chain. North Carolina has 3,250 mainline miles of track, with Class I railroads holding seventy-nine percent (79%) of the trackage rights, the remainder controlled by local railroads and switching and terminal railroads. The 2006 Mid-Cycle Update to the North Carolina Statewide Intermodal Transportation Plan identified seven hundred ninety-nine million dollars (\$799,000,000) in freight rail needs over the next 25 years, including maintenance and preservation, modernization, and expansion.
- (7) North Carolina's short-line railroads play a key role in the State's economic development and transportation service and are needed to provide essential services to other modes of transportation and the North Carolina port system. North Carolina agriculture is dependent upon essential service by short-line railroads. State funds are needed to maintain short-line railroads as viable contributors to economic development, agriculture, and transportation in this State in order to prevent the loss of regional rail service. The Department of Transportation reported that 44,992 rail cars handled by short-lines kept 179,688 trucks off North Carolina highways. Short-line railroads are essential to preserve and develop jobs in rural and small urban areas of North Carolina.
- (8) Intermodal facilities and inland ports can greatly reduce freight traffic on North Carolina's highway system, reducing demand, congestion, and damage.
- (9) The proposed North Carolina International Terminal will need high-capacity intermodal access.
- (10) Most of North Carolina's growth is in its urban regions. According to the State Data Center, during the first decade of the 21st century, sixty-six percent (66%) of the projected 1,270,000 growth in population is in 15 urban counties surrounding Charlotte, Raleigh, and the Triad, while forty percent (40%) is in just six counties: Mecklenburg, Wake, Durham, Orange, Forsyth, and Guilford.
- (11) This large urban population growth greatly taxes resources. Despite the visionary creation of the Highway Trust Fund by the 1989 General Assembly and the funding of urban loop highways, congestion continues to worsen. Creation of a special fund to help meet urban transportation needs with alternatives such as rail transit and buses, coupled with land-use planning, will spur and guide economic development in a more economically and environmentally sound manner. Investment in public transportation facilitates economic opportunity to the State through job creation, access to employment, and residential and commercial development. Public transportation also protects the public health by decreasing air pollution and reducing carbon emissions. It reduces traffic congestion, road expenditures, public and private parking costs, and the number of traffic accidents. Charlotte's recent success in opening the first phase of its light rail system, with ridership significantly over projections, shows that North Carolinians are willing to use transportation alternatives.
- (12) Significant local revenues are needed to match State funds so that a major portion of the expenses is borne by the localities receiving the majority of the benefits. A local option sales tax for public transportation was approved by a fifty-eight percent (58%) favorable vote in Mecklenburg County in 1998 and reaffirmed by a seventy percent (70%) favorable vote in 2007. Extending this authority to additional jurisdictions, along with other revenue options, will enable localities to demonstrate local support for additional transit options.
- (13) Surveys have indicated broad public support for providing additional public transportation options and for allowing localities to generate revenue to match State grants.

"§ 136-252. Grants to local governments and transportation authorities.

(a) Eligible Entities. – The following entities are eligible to receive grants under this section from the Fund for public transportation purposes, which includes planning and engineering:

- (1) Cities.
- (2) Counties.
- (3) Public transportation authorities under Article 25 of Chapter 160A of the General Statutes.
- (4) Regional public transportation authorities under Article 26 of Chapter 160A of the General Statutes.
- (5) Regional transportation authorities under Article 27 of Chapter 160A of the General Statutes.

(b) Requirements. – A grant may be approved from the Fund only if all of the following conditions are met:

- (1) The application is approved by all Metropolitan Planning Organizations under Article 16 of this Chapter whose jurisdiction includes any of the service area of the grant applicant.
- (2) The applicant has approved a transit plan that includes the following:
 - a. Relief of anticipated traffic congestion.
 - b. Improvement of air quality.
 - c. Reduction in anticipated energy consumption.
 - d. Promotion of a pedestrian- and bike-friendly environment around and connected to transit stations.
 - e. Promotion of mixed-use and transit-oriented developments and other land-use tools that encourage multimodal mobility.
 - f. Coordination with the housing needs assessment and plan provided in subdivision (3) of this subsection.
 - g. Promotion of access to public transportation for individuals who reside in areas with a disproportionate number of households below the area median income.
 - h. Coordination and planning with local education agencies to reduce transportation costs.
 - i. Coordination with local governments with zoning jurisdiction to carry out elements of the plan.

The applicant may also include plans for new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990 (42 U.S.C. § 12101, et seq.) that assist individuals with disabilities with transportation, including transportation to and from jobs and employment support services.

- (3) The applicant has approved a housing needs assessment and plan, or includes with its application such assessment and plan (or assessments and plans) approved by another unit or units of local government within its service area, that includes the following:
 - a. A housing inventory of market rate, assisted housing units, and vacant residential parcels.
 - b. An analysis of existing housing conditions, affordable housing needs, and housing needs for specific population groups, such as people who are elderly, are disabled, have special needs, or are homeless.
 - c. A catalogue of available resources to address housing needs.
 - d. Identification of potential resources and a strategy to provide replacement housing for low-income residents displaced by transit development and to create incentives for the purpose of increasing the stock of affordable housing to at least fifteen percent (15%) within a one-half mile radius of each transit station and bus hub to be affordable to families with income less than sixty percent (60%) of area median income.
 - e. Goals, strategies, and actions to address housing needs over a five-year period.
- (4) The applicant has an adequate and sustainable source of funding established for its share of project costs.

(5) The applicant agrees to submit to both the Secretary and each Metropolitan Planning Organization that approved the application a periodic update of the implementation of both the transit plan and the housing needs assessment and plan. Each Metropolitan Planning Organization receiving such update shall afford interested parties the opportunity to comment on the update.

(c) Multiyear Allotments. – Grants from the Fund may be committed for a multiyear basis to stabilize the phased implementation of a plan, including multiyear allotments. The Secretary of Transportation, after consultation with the Board of Transportation, shall approve, and amend from time to time, a rolling multiyear projection of up to 15 years for allocation of funds under this section. No applicant is eligible under the 15-year plan projection for more than one-third of the total funds to be granted under this Article during that 15-year period.

(d) Cap; Matching Requirement. – A grant under this section may not exceed twenty-five percent (25%) of the cost of the project and must be matched by an equal or greater amount of funds by the applicant. In evaluating projects, qualification for federal funding shall be considered.

"§ 136-253. Grants to other units.

(a) Eligible Entities; Purposes. – State agencies and railroads are eligible to receive grants under this section from the Fund for any of the following purposes:

(1) Assistance to short-line railroads to continue and enhance rail service in the State so as to assist in economic development and access to ports and military installations. This may involve both the Rail Industrial Access Program and the Short Line Infrastructure Access Program, as well as other innovative programs. Grants under this subdivision shall not exceed fifty percent (50%) of the nonfederal share and must be matched by equal or greater funding from the applicant. Total grants under this subdivision may not exceed five million dollars (\$5,000,000) per fiscal year.

(2) Assistance to any railroad in the construction of rail improvements, intermodal or multimodal facilities or restorations to (i) serve ports, military installations, inland ports or (ii) improve rail infrastructure to reduce or mitigate truck traffic on the highway system. Grants under this subdivision shall not exceed fifty percent (50%) of the nonfederal share and must be matched by equal or greater funding from the applicant. Total grants under this subdivision may not exceed ten million dollars (\$10,000,000) per fiscal year.

(3) Assistance (i) to the State ports in terminal railroad facilities and operations, (ii) to improve access to military installations, and (iii) to the North Carolina International Terminal. Grants under this subdivision shall not exceed fifty percent (50%) of the nonfederal share and must be matched by equal or greater funding from the applicant. Total grants under this subdivision may not exceed ten million dollars (\$10,000,000) per fiscal year.

(4) Expansion of intercity passenger rail service, including increased frequency and additional cities serviced. Routes under this subdivision must extend beyond the territorial jurisdiction of a transportation authority.

(b) Commuter Rail Service Grants. – State agencies, railroads, transportation authorities under Article 25 of Chapter 160A of the General Statutes, regional public transportation authorities under Article 26 of Chapter 160A of the General Statutes, and regional transportation authorities under Article 27 of Chapter 160A of the General Statutes are eligible to receive grants under this section from the Fund for the introduction of commuter rail service. Routes under this subsection must extend beyond the territorial jurisdiction of a transportation authority.

"§ 136-254. Grant approval.

All grants made under this Article are subject to approval of the Secretary of Transportation after consultation with the Board of Transportation. The Fund may be administered in conjunction with G.S. 136-44.20 and G.S. 136-44.36, but any funds allocated under those sections shall continue to be available as provided therein.

"§ 136-254.1. Expenditure.

No monies shall be expended from the Fund until appropriated by the General Assembly.

"§ 136-255. Funds remain available until expended.

Appropriations to the Fund remain available until expended."

PUBLIC TRANSPORTATION SALES TAX AUTHORIZED

SECTION 2.(a) Section 1(a) of S.L. 1997-417 is recodified as G.S. 105-510.1.

SECTION 2.(b) Article 43 of Chapter 105 of the General Statutes, as enacted by S.L. 1997-417 and amended by Section 13(f) of S.L. 2001-427, Section 74 of S.L. 2008-134, and by subsection (a) of this section, reads as rewritten:

"Article 43.

"Local Government Sales and Use Taxes for Public Transportation.

"Part 1. General.

"§ 105-505. Short title; purpose.

This Article is the Local Government Public Transportation Sales Tax Act and may be cited by that name. This Article gives the ~~counties~~ counties and transportation authorities of this State an opportunity to obtain an additional source of revenue with which to meet their needs for financing local public transportation systems. It provides ~~counties~~ them with authority to levy ~~one-half percent (1/2%)~~ sales and use taxes. All such taxes must be approved in a referendum.

"§ 105-506. Definitions.

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

- (1) Board of trustees. – The governing body of a transportation authority.
- ~~(1)~~(2) Net proceeds. – Gross proceeds less the cost of administering and collecting the tax.
- ~~(2)~~(3) Public transportation system. – Any combination of real and personal property established for purposes of public transportation. The systems may include one or more of the following: structures, improvements, buildings, equipment, vehicle parking or passenger transfer facilities, railroads and railroad rights-of-way, rights-of-way, bus services, shared-ride services, high-occupancy vehicle facilities, car-pool and vanpool programs, voucher programs, telecommunications and information systems, integrated fare systems, and the interconnected bicycle and pedestrian infrastructure that supports public transportation, bus lanes, and busways. The term does not include, however, streets, roads, or highways except to the extent they are dedicated to public transportation vehicles or to the extent they are necessary for access to vehicle parking or passenger transfer facilities.
- (4) Transportation authority. – For the purposes of Parts 3 and 3A of this Article, a regional public transportation authority created pursuant to Article 26 of Chapter 160A of the General Statutes; and for the purposes of Parts 3 and 3B of this Article, a regional transportation authority created pursuant to Article 27 of Chapter 160A of the General Statutes.

"§ 105-506.1. Exemption of food.

A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a).

"Part 2. Mecklenburg County.

"§ 105-507. Limitations.

A county may not levy a tax under this ~~Article~~ Part unless the county or at least one unit of local government in the county operates a public transportation system. In addition, a county may not levy a tax under this ~~Article~~ Part unless it has developed a financial plan and distributed it to each unit of local government in the county that operates a local public transportation system. The financial plan must provide for equitable allocation of the net proceeds distributed to the county in consideration of the identified needs of local public transportation systems in the county, countywide human service transportation systems, and expansion of public transportation service to unserved areas in the county.

"§ 105-508. Local election on adoption of sales and use tax.

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be levied in accordance with this ~~Article~~ Part. The election shall be held on a date jointly agreed upon by the boards and shall be held in accordance with the procedures of G.S. 163-287. The board of commissioners

shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(b) **Ballot Question.** – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

[] FOR [] AGAINST

One-half percent (1/2%) local sales and use taxes, in addition to the current ~~two percent (2%)~~ local sales and use taxes, to be used only for public transportation systems.'

"§ 105-509. Levy and collection of sales and use tax.

If the majority of those voting in a referendum held pursuant to ~~this Article~~ G.S. 105-508 vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this ~~Article~~, Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this ~~Article~~, Part, references to 'this Article' mean 'Part 1 of Article 43 of Chapter 105 of the General Statutes'.

"§ 105-510. Distribution and use of taxes.

(a) **Distribution.** – The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of the tax levied under this ~~Article~~ Part by that county. If the Secretary collects taxes under this ~~Article~~ Part in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate these taxes among the taxing counties, in proportion to the amount of taxes collected in each county under this ~~Article~~ Part in that month and shall include them in the monthly distribution.

The Secretary shall distribute the net proceeds of the tax levied by a county on a per capita basis among the county and the units of local government in the county that operate public transportation systems. No proceeds shall be distributed to a county that does not operate a public transportation system or to a unit of local government that does not operate a public transportation system.

(b) **Use.** – A county must allocate the net proceeds distributed to it in accordance with its financial plan adopted pursuant to G.S. 105-507 and use the net proceeds only for financing, constructing, operating, and maintaining local public transportation systems. Any other unit of local government may use the net proceeds distributed to it under this ~~Article~~ Part only for financing, constructing, operating, and maintaining local public transportation systems. Every unit of government shall use the net proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems.

"§ 105-510.1. Applicability.

This ~~section~~ Part applies only to Mecklenburg County.

"Part 3. Transportation Authorities.

"§ 105-510.5. Special districts.

(a) **Authority.** – A transportation authority may create a special district as provided in Parts 3A and 3B of this Article. A special district is subject to the provisions of this Part as well as the Part under which it was created. A special district created under this Article is a local government body corporate and politic and has the power to carry out the purposes of the Part under which it is established.

(b) **Governance.** – The following entity shall serve ex officio as the governing board and be responsible for budget adoption and the operation and management of the transit services provided by the district:

(1) The board of trustees of the transportation authority, if the special district consists of multiple counties. If the special district is expanded under G.S. 105-510.8(d) or G.S. 105-510.10(d) to include more than one county, then the board of trustees of the transportation authority shall become the governing board of the district beginning on the first day of the next fiscal year after expansion of the district.

(2) The county board of commissioners, if the special district consists of one county. The board may contract with the transportation authority as needed.

(c) **Filing Requirement.** – The transportation authority creating a special district shall name it and file with the Secretary of State the documents creating the district, and shall also file notice of the addition to and removal from the district of any counties, or of the abolition of the special district.

"§ 105-510.6. Limitations.

A transportation authority may not levy a tax under Part 3A or 3B of this Article unless:

- (1) It operates a public transportation system.
- (2) It has developed a financial plan and distributed it to each unit of local government located within its territorial jurisdiction. The plan must be approved by the board of commissioners of each county in the district prior to the levy of the tax. If the board of commissioners of a county in a multicounty district does not adopt the plan, the transportation authority may remove that county from the district, and no tax may be levied in that county under this Part. The financial plan must provide for equitable use of the net proceeds within or to benefit the special district created under Part 3A or Part 3B of this Article and consider (i) the identified needs of local public transportation systems in the district, (ii) human service transportation systems within the district, and (iii) expansion of public transportation systems to underserved areas of the district. The financial plan must also be approved by all Metropolitan Planning Organizations under Article 16 of Chapter 136 of the General Statutes whose jurisdiction includes any of the area of the special district. The plan may be revised from time to time. An interlocal agreement between the transportation authority and all the counties in the special district may require periodic review and approval of the financial plan.
- (3) The tax is approved by the voters.

"§ 105-510.7. Distribution and use of taxes.

(a) Distribution. – The Secretary shall, on a monthly basis, allocate to each special district the net proceeds of the tax levied under this Part within the special tax district, to be used for the benefit of that district.

(b) Use. – A special district must expend the net proceeds distributed to it in accordance with its financial plan adopted pursuant to G.S. 105-510.6 and use the net proceeds only for financing, constructing, operating, and maintaining public transportation systems. The special district shall use the net proceeds to supplement and not to supplant or replace existing funds or other resources for public transportation systems.

"Part 3A. Regional Public Transportation Authority (Triangle).

"§ 105-510.8. Local election on adoption of sales and use tax – regional public transportation authority.

(a) Special District. – A regional public transportation authority may create a special district that consists of the entire area of one or more counties within its territorial jurisdiction and may levy on behalf of the special district the tax authorized in this section. The proceeds of a tax levied under this section may be used only for the benefit of the special district and only for the purposes provided in this Article. If a referendum in a district fails in all the counties in the district, the transportation authority may abolish the special district.

(b) Resolution. – The board of trustees of the regional public transportation authority may, if all of the conditions listed in this subsection have been met, direct the respective county board or boards of elections to conduct an advisory referendum within the special district on the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be levied within the district in accordance with this Part. The tax may not be levied without voter approval. The election shall be held on a date jointly agreed upon by the authority, the county board or boards of commissioners, and the county board or boards of elections and shall be held in accordance with the procedures of G.S. 163-287. An election to authorize the levy of a tax under this Part may be held only on one of the following dates: (i) Tuesday after the first Monday of November in the even-numbered year, the date of the general election under G.S. 163-1, (ii) the date of the primary election in the even-numbered year under G.S. 163-1(b), (iii) Tuesday after the first Monday in November of the odd-numbered year, or (iv) a date in September or October of the odd-numbered year as listed in G.S. 163-279(a)(2), (3), or (4) but only if at least one municipality in the county is holding a primary or election on that date. The conditions are as follows:

- (1) The board of trustees has obtained approval to conduct a referendum by a vote of the following:
 - a. A majority vote of each of the county boards of commissioners within the special district, if it is a multicounty special district.

b. A majority of the county board of commissioners within the special district, if it is a single-county special district.

(2) A public hearing is held on the question by the board or boards of commissioners at least 30 days before the date the election is to be held.

(c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

FOR AGAINST

One-half percent (1/2%) local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems.'

(d) Expansion. – If a special district created under this Part does not include all the counties in the territorial jurisdiction of a transportation authority, it may be expanded to include an additional whole county or counties by joint action of the board of trustees of the transportation authority and the board of commissioners of the county or boards of commissioners of the counties to be added, with the approval of the voters in the county or counties to be added. The procedure for expansion of a district is the same as for the initial creation of the district, but the referendum shall be held separately within each of the counties to be added.

"§ 105-510.9. Levy and collection of sales and use tax – regional public transportation authority.

If the majority of those voting in a referendum held pursuant to G.S. 105-510.8 vote for the levy of the tax, the transportation authority may, by resolution, levy one-half percent (1/2%) local sales and use taxes within the special district, in addition to any other State and local sales and use taxes levied pursuant to law. In determining the results of the election in a multicounty district, all the counties of the district shall be considered to be one unit but also must receive a majority vote in each county, except that if the referendum is passed in one or more but not all of the counties, the counties in which the referendum was not approved are removed from the special district upon certification of the election result and the county or counties that approved the referendum shall remain in the special district. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean 'Part 3A of Article 43 of Chapter 105 of the General Statutes.' Any repeal of the tax shall be done by the same procedure as its enactment under this section, and in a multicounty district a petition for repeal under G.S. 105-473 shall be judged by the total votes in all the counties in the district.

"Part 3B. Regional Transportation Authority (Triad).

"§ 105-510.10. Local election on adoption of sales and use tax – regional transportation authority.

(a) Special District. – A regional transportation authority may create a special district that consists of the entire area of one or two counties within its territorial jurisdiction and may levy on behalf of the special district the tax authorized in this section. The special district may not include counties other than Forsyth and Guilford. The proceeds of a tax levied under this section may be used only for the benefit of the special district and only for the purposes provided in this Article. If a referendum in a district fails, the transportation authority may abolish the special district.

(b) Resolution. – The board of trustees of the regional transportation authority may, if all of the conditions listed in this subsection have been met, direct the respective county board or boards of elections to conduct an advisory referendum within the special district on the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be levied within the district in accordance with this Part. The tax may not be levied without voter approval. The election shall be held on a date jointly agreed upon by the authority, the county board or boards of commissioners, and the county board or boards of elections and shall be held in accordance with the procedures of G.S. 163-287. An election to authorize the levy of a tax under this Part may be held only on one of the following dates: (i) Tuesday after the first Monday of November in the even-numbered year, the date of the general election under G.S. 163-1, (ii) the date of the primary election in the even-numbered year under G.S. 163-1(b), (iii) Tuesday after the first Monday in November of the odd-numbered year, or (iv) a date in September or October of the odd-numbered year as listed in G.S. 163-279(a)(2), (3), or (4) but only if at least one municipality in the county is holding a primary or election on that date. The conditions are as follows:

- (1) The board of trustees has obtained approval to conduct a referendum by a vote of the following:
- a. A majority vote of both of the county boards of commissioners within the special district, if it is a multicounty special district.
 - b. A majority of the county board of commissioners within the special district, if it is a single-county special district.
- (2) A public hearing is held on the question by the board or boards of commissioners at least 30 days before the date the election is to be held.
- (c) Ballot Question. – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

FOR AGAINST

One-half percent (1/2%) local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems.'

(d) Expansion. – If a special district created under this Part does not include both of the eligible counties under subsection (a) of this section, it may be expanded to include the other county by joint action of the board of trustees of the transportation authority and the board of commissioners of the county to be added, with the approval of the voters in the county to be added. The procedure for expansion of the district is the same as for the initial creation of the district, but the referendum shall be held separately in the county to be added.

"§ 105-510.11. Levy and collection of sales and use tax – regional transportation authority.

If the majority of those voting in a referendum held pursuant to G.S. 105-510.10 vote for the levy of the tax, the transportation authority may, by resolution, levy one-half percent (1/2%) local sales and use taxes within the special district, in addition to any other State and local sales and use taxes levied pursuant to law. In determining the results of the election in a multicounty district, all the counties of the district shall be considered to be one unit but also must receive a majority vote in each county, except that if the referendum is passed in one but not both of the counties, the county in which the referendum was not approved is removed from the special district upon certification of the election result and the county that approved the referendum shall remain in the special district. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to 'this Article' mean 'Part 3B of Article 43 of Chapter 105 of the General Statutes.' Any repeal of the tax shall be done by the same procedure as its enactment under this section, and in a multicounty district a petition for repeal under G.S. 105-473 shall be judged by the total votes in all the counties in the district.

"Part 4. Other Counties.

"§ 105-510.12. Applicability.

This Part applies only in counties other than Durham, Forsyth, Guilford, Mecklenburg, Orange, or Wake.

"§ 105-510.13. Limitations.

A county may not levy a tax under this Part unless the county or at least one unit of local government in the county operates a public transportation system. As used in this Part, operation of a public transportation system includes a contract or interlocal agreement for operation of the public transportation system by another county or municipality, or by a transportation authority created under (i) a municipal charter; or (ii) Article 25, 26, or 27 of Chapter 160A of the General Statutes. As used in this Part, operation of a public transportation system also includes a contract with a private entity for operation of the public transportation system.

"§ 105-510.14. Local election on adoption of sales and use tax.

(a) Resolution. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of one-quarter percent (1/4%) may be levied in accordance with this Part. The election shall be held on a date jointly agreed upon by the boards and shall be held in accordance with the procedures of G.S. 163-287. An election to authorize the levy of a tax under this Part may be held only on one of the following dates: (i) Tuesday after the first Monday of November in the even-numbered year, the date of the general election under G.S. 163-1, (ii) the date of the primary election in the even-numbered year under G.S. 163-1(b), (iii) Tuesday after the first Monday in November of the odd-numbered year, or (iv) a date in

September or October of the odd-numbered year as listed in G.S. 163-279(a)(2), (3), or (4) but only if at least one municipality in the county is holding a primary or election on that date. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

(b) **Ballot Question.** – The form of the question to be presented on a ballot for a special election concerning the levy of a tax authorized by this Article shall be:

FOR AGAINST

One-quarter percent (1/4%) local sales and use taxes, in addition to the current local sales and use taxes, to be used only for public transportation systems.'

"§ 105-510.15. Levy and collection of sales and use tax.

If the majority of those voting in a referendum held pursuant to this Part vote for the levy of the tax, the board of commissioners of the county may, by resolution, levy one-quarter percent (1/4%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Part, the adoption, levy, collection, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Part, references to 'this Article' mean 'Part 4 of Article 43 of Chapter 105 of the General Statutes.'

"§ 105-510.16. Distribution and use of taxes.

(a) **Distribution.** – The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of the tax levied under this Part by that county. If the Secretary collects taxes under this Part in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate these taxes among the taxing counties, in proportion to the amount of taxes collected in each county under this Part in that month and shall include them in the monthly distribution.

The Secretary shall distribute the net proceeds of the tax levied by a county on a per capita basis among the county and the units of local government in the county that operate a public transportation system as follows:

- (1) To the county based on the population of the county that is not in an incorporated area, and to the municipalities within the county based on the population of that municipality that is located within that county. To determine the population of each county and each municipality, the Secretary shall use the most recent annual estimate of population certified by the State Budget Officer.
- (2) Notwithstanding subdivision (1) of this subsection, if a municipality to which funds are to be allocated neither operates nor contracts for the operation of a public transportation system, the population of that municipality shall be excluded from the calculations of subdivision (1) of this subsection.
- (3) Notwithstanding subdivision (1) of this subsection, if a county to which funds are to be allocated neither operates nor contracts for the operation of a public transportation system, the population of that county not in an incorporated area shall be excluded from the calculations of subdivision (1) of this subsection.

If a county or a municipality that does not receive an allocation of funds on account of subdivision (2) or (3) of this subsection begins to operate or contract for the operation of a public transportation system, that county or municipality shall begin receiving funds beginning the first day of July that is more than 30 days thereafter.

(b) **Use.** – A county or municipality may use funds received under this Part only for financing, constructing, operating, and maintaining public transportation systems. Every unit of government shall use funds to supplement and not to supplant or replace existing funds or other resources for public transportation systems."

SECTION 2.(c) Section 7 of S.L. 1997-417 reads as rewritten:

"Section 7. A tax levied under Article 43 of Chapter 105 of the General Statutes, as enacted by this act, Statutes does not apply to construction materials purchased to fulfill a lump sum or unit price contract entered into or awarded before the effective date of the levy or entered into or awarded pursuant to a bid made before the effective date of the levy when the construction materials would otherwise be subject to the tax levied under Article 43 of Chapter 105 of the General Statutes."

SECTION 2.(d) G.S. 105-164.14(c) is amended by adding a new subdivision to read:

"(c) Certain Governmental Entities. – A governmental entity listed in this subsection is allowed an annual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services, other than electricity, telecommunications service, and ancillary service. Sales and use tax liability indirectly incurred by a governmental entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the governmental entity and is being erected, altered, or repaired for use by the governmental entity is considered a sales or use tax liability incurred on direct purchases by the governmental entity for the purpose of this subsection. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund is due within six months after the end of the governmental entity's fiscal year.

This subsection applies only to the following governmental entities:

...
(23) A special district created under Article 43 of this Chapter."

SECTION 2.(e) G.S. 159-81(1) reads as rewritten:

"The words and phrases defined in this section shall have the meanings indicated when used in this Article:

(1) "Municipality" means a county, city, town, incorporated village, sanitary district, metropolitan sewerage district, metropolitan water district, county water and sewer district, water and sewer authority, hospital authority, hospital district, parking authority, special airport district, special district created under Article 43 of Chapter 105 of the General Statutes, regional public transportation authority, regional transportation authority, regional natural gas district, regional sports authority, airport authority, joint agency created pursuant to Part 1 of Article 20 of Chapter 160A of the General Statutes, a joint agency authorized by agreement between two cities to operate an airport pursuant to G.S. 63-56, and the North Carolina Turnpike Authority created pursuant to Article 6H of Chapter 136 of the General Statutes, but not any other forms of State or local government.

....
SECTION 2.(f) G.S. 160A-460 reads as rewritten:

"§ 160A-460. Definitions.

The words defined in this section shall have the meanings indicated when used in this Part:

(1) "Undertaking" means the joint exercise by two or more units of local government, or the contractual exercise by one unit for one or more other units, of any power, function, public enterprise, right, privilege, or immunity of local government.

(2) "Unit," or "unit of local government" means a county, city, consolidated city-county, local board of education, sanitary district, facility authority created under Part 4 of this Article, special district created under Article 43 of Chapter 105 of the General Statutes, or other local political subdivision, authority, or agency of local government."

SECTION 2.(g) G.S. 160A-20(h) is amended by adding a new subdivision to read:

"(14) A special district created under Article 43 of Chapter 105 of the General Statutes."

SECTION 2.(h) Section 3.1 of S.L. 1997-417, as added by Section 30 of S.L. 2006-162, reads as rewritten:

"**SECTION 3.1.** A county authorized to impose a tax under Part 2 of Article 43 of Chapter 105 of the General Statutes as enacted by Part 1 of this act, ~~Statutes~~ is considered an authority under Article 50 of Chapter 105 of the General Statutes, as enacted by Section 3 of this of this act, and the board of commissioners of that county is considered the board of trustees of the authority under Article 50. G.S. 105-554 of Article 50 does not apply to the proceeds of a tax imposed by county considered an authority under this section. The proceeds of a tax imposed by a county considered an authority under this section must be transferred to the largest city in that county operating a public transportation system. The proceeds of a tax imposed by a county considered an authority under this section must be transferred to the largest city in that county operating a public transportation system and used only for financing, constructing,

operating, and maintaining a public transportation system. The proceeds may supplant existing funds allocated for a public transportation system. The term 'public transportation system' has the same meaning as defined in ~~G.S. 105-506 of Article 43.~~ G.S. 105-506."

LOCAL VEHICLE REGISTRATION CHARGE ADJUSTED FOR INFLATION

SECTION 3.(a) G.S. 105-561(a) reads as rewritten:

"(a) Tax Authorized. – The board of trustees of an Authority may, by resolution, levy an annual license tax in accordance with this Article upon any motor vehicle with a tax situs within its territorial jurisdiction. The purpose of the tax levied under this Article is to raise revenue for capital and operating expenses of an Authority in providing public transportation systems. The rate of tax levied under this Article must be a full dollar amount, but may not exceed ~~five dollars (\$5.00)~~ seven dollars (\$7.00) a year."

SECTION 3.(b) Effective July 1, 2010, G.S. 105-561(a), as amended by subsection (a) of this section, reads as rewritten:

"(a) Tax Authorized. – The board of trustees of an Authority may, by resolution, levy an annual license tax in accordance with this Article upon any motor vehicle with a tax situs within its territorial jurisdiction. The purpose of the tax levied under this Article is to raise revenue for capital and operating expenses of an Authority in providing public transportation systems. The rate of tax levied under this Article must be a full dollar amount, but may not exceed ~~seven dollars (\$7.00)~~ eight dollars (\$8.00) a year."

SECTION 3.(c) G.S. 105-561(d) reads as rewritten:

"(d) Special Tax District. – If a regional transportation authority created under Article 27 of Chapter 160A of the General Statutes has not levied the tax under this section or has levied the tax at a rate of less than ~~five dollars (\$5.00)~~ seven dollars (\$7.00), it may create a special district that consists of the entire area of one or more counties within its territorial jurisdiction and may levy on behalf of the special district the tax authorized in this section. The rate of tax levied within the special district may not, when combined with the rate levied within the entire territorial jurisdiction of the authority; exceed ~~five dollars (\$5.00)~~ seven dollars (\$7.00). The regional transportation authority may not levy or increase a tax within the special district unless the board of commissioners of each county in the special district has adopted a resolution approving the levy or increase.

A special district created pursuant to this subsection is a body corporate and politic and has the power to carry out the purposes of this subsection. The board of trustees of the regional transportation authority created under Article 27 of Chapter 160A of the General Statutes shall serve, ex officio, as the governing body of a special district it creates pursuant to this subsection. The proceeds of a tax levied under this subsection may be used only for the benefit of the special district and only for the purposes provided in G.S. 105-564. Except as provided in this subsection, a tax levied under this subsection is governed by the provisions of this Article."

SECTION 3.(d) Effective July 1, 2010, G.S. 105-561(d), as amended by subsection (c) of this section, reads as rewritten:

"(d) Special Tax District. – If a regional transportation authority created under Article 27 of Chapter 160A of the General Statutes has not levied the tax under this section or has levied the tax at a rate of less than ~~seven dollars (\$7.00)~~ eight dollars (\$8.00), it may create a special district that consists of the entire area of one or more counties within its territorial jurisdiction and may levy on behalf of the special district the tax authorized in this section. The rate of tax levied within the special district may not, when combined with the rate levied within the entire territorial jurisdiction of the authority; exceed ~~seven dollars (\$7.00)~~ eight dollars (\$8.00). The regional transportation authority may not levy or increase a tax within the special district unless the board of commissioners of each county in the special district has adopted a resolution approving the levy or increase.

A special district created pursuant to this subsection is a body corporate and politic and has the power to carry out the purposes of this subsection. The board of trustees of the regional transportation authority created under Article 27 of Chapter 160A of the General Statutes shall serve, ex officio, as the governing body of a special district it creates pursuant to this subsection. The proceeds of a tax levied under this subsection may be used only for the benefit of the special district and only for the purposes provided in G.S. 105-564. Except as provided in this subsection, a tax levied under this subsection is governed by the provisions of this Article."

ADDITIONAL VEHICLE REGISTRATION CHARGE AUTHORIZED

SECTION 4. Subchapter IX of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 52. County Vehicle Registration Tax.

"§ 105-557. County Vehicle Registration Tax; shared with municipalities.

(a) A county is considered an authority under Article 51 of this Chapter, and the board of commissioners of that county is considered the board of trustees of the authority under Article 51, except that the maximum tax that may be levied by a county under this Article is seven dollars (\$7.00) per year.

(b) A county may not levy a tax under this Article unless the county or at least one unit of local government in the county operates a public transportation system.

(c) Any tax levied under this Article shall, after the receipt of those funds from the Division of Motor Vehicles, be retained or distributed by the county on a per capita basis as it receives those funds as follows:

- (1) Pro rata (i) retained by the county based on the population of the county that is not in an incorporated area, and (ii) distributed to the municipalities within the county based on the population of that municipality that is located within that county. To determine the population of each county and municipality, the county shall use the most recent annual estimate of population certified by the State Budget Officer.
- (2) Notwithstanding subdivision (1) of this subsection, if a municipality to which funds are to be distributed does not operate a public transportation system, the population of that municipality shall be excluded from the calculations of subdivision (1) of this subsection and no distribution shall be made to that municipality.
- (3) Notwithstanding subdivision (1) of this subsection, if a county for which funds are to be retained does not operate a public transportation system, the population of that county not in an incorporated area shall be excluded from the calculations of subdivision (1) of this subsection, and the county shall not retain any funds.

If a county that does not retain funds or a municipality that does not receive an allocation of funds on account of subdivision (2) or (3) of this subsection begins to operate a public transportation system, that county or municipality shall begin retaining or receiving funds beginning the first day of July that is more than 30 days thereafter.

(d) The proceeds of a tax imposed under this Article may be used by that county or municipality only to operate a public transportation system, including financing, constructing, operating, and maintaining that public transportation system. The term 'public transportation system' has the same meaning as defined in G.S. 105-506.

(e) As used in this section, operation of a public transportation system includes a contract or interlocal agreement for operation of the public transportation system by another county or municipality, or by a transportation authority created under (i) a municipal charter; or (ii) Article 25, 26, or 27 of Chapter 160A of the General Statutes. As used in this section, operation of a public transportation system also includes a contract with a private entity for operation of the public transportation system.

(f) An interlocal agreement under this section may also deal with allocation of funds between a municipality and county for operation by the county of a human services public transportation system within the municipality when the municipality also operates a public transportation system.

(g) This Article is supplemental to Article 51 of this Chapter."

VEHICLE REGISTRATION TAX CONFORMED TO NEW REGISTRATION SYSTEM DEADLINES

SECTION 5.(a) G.S. 105-562(a) reads as rewritten:

"(a) Collection. – A tax or a tax increase levied under this Article becomes effective on the date set by the board of trustees in the resolution levying the tax or the tax increase. The effective date must be the first day of a month and may not be earlier than the first day of the ~~third-sixth~~ calendar month after the board of trustees adopts the resolution. To the extent the tax applies to vehicles whose tax situs is in a county the entire area of which is within the

jurisdiction of the Authority, the Division of Motor Vehicles shall collect and administer the tax. To the extent the tax applies to vehicles whose tax situs is in a county that is only partially within the jurisdiction of the county, the Authority shall collect and administer the tax. The Authority may contract with one or more local governments in its jurisdiction to collect the tax on its behalf.

Upon receipt of the resolutions under G.S. 105-561, the Division of Motor Vehicles shall proceed to collect and administer the tax as provided in this Article. The tax is due at the same time and subject to the same restrictions as in G.S. 20-87(1), (2), (4), (5), (6), and (7) and G.S. 20-88. The Division of Motor Vehicles may adopt rules to carry out its responsibilities under this Article."

SECTION 5.(b) G.S. 105-563 reads as rewritten:

"§ 105-563. Modification or repeal of tax.

The Board of Trustees may, by resolution, repeal the levy of the tax under this Article or decrease the amount of the tax, under the same procedures and subject to the same limitations as provided in G.S. 105-561. A tax repeal or a tax decrease becomes effective on the date set by the board of trustees in the resolution repealing or decreasing the tax. The effective date must be on the first day of a month and may not be earlier than the first day of the ~~third~~sixth calendar month after the board of trustees adopts the resolution. Repeal or decrease of a tax levied under this Article does not affect the rights or liabilities of an Authority, a taxpayer, or another person arising before the repeal or decrease."

RTP SERVICE DISTRICT AUTHORIZATION EXTENDED

SECTION 6. G.S. 153A-317 reads as rewritten:

"§ 153A-317. Taxes authorized; rate limitation.

(a) A county, upon recommendation of the advisory committee established pursuant to G.S. 153A-313, may levy property taxes within a research and production service district in addition to those levied throughout the county, in order to finance, provide, or maintain for the district services provided therein in addition to or to a greater extent than those financed, provided, or maintained for the entire county. In addition, a county may allocate to a service district any other revenues whose use is not otherwise restricted by law. The proceeds of taxes only within a service district may be expended only for services provided for the district.

Property subject to taxation in a newly established district or in an area annexed to an existing district is that subject to taxation by the county as of the preceding January 1.

(b) Such additional property taxes may not be levied within any district established pursuant to this Article in excess of a rate of ten cents (10¢) on each one hundred dollars (\$100.00) value of property subject to taxation.

(c) For the purpose of constructing, maintaining, or operating public transportation as defined by G.S. 153A-149(c)(27), in addition to the additional property taxes levied under subsections (a) and (b) of this section, a county, upon recommendation of the advisory committee established pursuant to G.S. 153A-313, may levy additional property taxes within any service district established pursuant to this Article not in excess of a rate of ten cents (10¢) on each one hundred dollars (\$100.00) value of property subject to taxation. Such property taxes for public transportation may only be used within the service district, or to provide for public transportation from the service district to other public transportation systems or to other places outside the service district including airports."

EFFECTIVE DATE

SECTION 7. This act is effective when it becomes law.
In the General Assembly read three times and ratified this the 11th day of August,
2009.

s/ Walter H. Dalton
President of the Senate

s/ Joe Hackney
Speaker of the House of Representatives

s/ Beverly E. Perdue
Governor

Approved 8:45 a.m. this 27th day of August, 2009