

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

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SENATE BILL 1704*
Finance Committee Substitute Adopted 6/4/08
House Committee Substitute Favorable 6/26/08

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

(Public)

Sponsors:

Referred to:

May 21, 2008

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

4 The General Assembly of North Carolina enacts:

5 **911 TECHNICAL CHANGES**

6 **SECTION 1.(a)** G.S. 62A-44(b) reads as rewritten:

7 "(b) Allocation of Revenues. – The 911 Board may deduct and retain for its
8 administrative expenses up to one percent (1%) of the total service charges remitted to it
9 under G.S. 62A-43 for deposit in the 911 Fund. The remaining revenues remitted to the
10 911 Board for deposit in the 911 Fund are allocated as follows:

11 (1) ~~Fifty three percent (53%)~~ A percentage of the funds remitted by CMRS
12 providers to the 911 Fund are allocated for reimbursements to CMRS
13 providers pursuant to G.S. 62A-45.

14 (2) ~~Forty seven percent (47%)~~ A percentage of the funds remitted by
15 CMRS providers and all funds remitted by all other voice
16 communications service providers are allocated for monthly
17 distributions to primary PSAPs pursuant to G.S. 62A-46 and grants to
18 PSAPs pursuant to G.S. 62A-47.

19 (3) The percentage of the funds remitted by CMRS providers allocated to
20 CMRS providers and PSAPs shall be set by the 911 Board and may be
21 adjusted by the 911 Board as necessary to ensure full cost recovery for
22 CMRS providers and, to the extent there are excess funds, for
23 distributions to primary PSAPs."

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

25 "(b) Percentage Designations. – The 911 Board must determine how revenue that
26 is allocated to the 911 Fund for distribution to primary PSAPs and is not needed to
27 make the base amount distribution required by subdivision (a)(1) of this section is to be
28 used. The 911 Board must designate a percentage of the remaining funds to be

1 distributed to primary PSAPs on a per capita basis and a percentage to be allocated to
2 the PSAP Grant Account established in G.S. 62A-47. If the 911 Board does not
3 designate an amount to be allocated to the PSAP Grant Account, the 911 Board must
4 distribute all of the remaining funds on a per capita basis. The 911 Board may not
5 change the percentage designation more than once each ~~calendar~~ fiscal year."

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

7 "(f) Application to Cherokees. – The Eastern Band of Cherokee Indians is an
8 eligible PSAP. The Tribal Council of the Eastern Band is the local governing entity of
9 the Eastern Band for purposes of this section. The Tribal Council must give the 911
10 Board information adequate to determine the Eastern Band's base amount. The 911
11 Board must use the most recent federal census estimate of the population living on the
12 Qualla Boundary to determine the per capita distribution amount."

13 **SECTION 1.(d)** Section 7.(c) of the S.L. 2007-383 reads as rewritten:

14 **"SECTION 7.(c)** Notwithstanding G.S. 62A-43, the charge imposed by that section
15 does not apply to prepaid wireless telephone service for the 2008 calendar ~~year~~ year and
16 for the first nine months of the 2009 calendar year."

17 **SECTION 1.(e)** This section is effective when it becomes law. Subsection
18 (c) of this section applies to distributions for the 2007-2008 fiscal year and subsequent
19 fiscal years.

20 **WORK OPPORTUNITY TAX CREDIT CHANGES**

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

22 **"§ 105-129.16G. Work Opportunity Tax Credit.**

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

29 (b) Sunset. – This section expires for taxable years beginning on or after January
30 1, 2012."

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

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

34 ...
35 (11) If a deduction for an ordinary and necessary business expense was
36 required to be reduced or was not allowed under the Code because the
37 corporation claimed a federal tax credit against its federal income tax
38 liability for the income year in lieu of a deduction, the amount by
39 which the deduction was reduced and the amount of the deduction that
40 was disallowed. This deduction is allowed only to the extent that a
41 similar credit is not allowed by this Chapter for the amount."

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

43 "(2) The taxpayer may deduct the amount by which the taxpayer's
44 deductions allowed under the Code were reduced, and the amount of

1 the taxpayer's deductions that were not allowed, because the taxpayer
2 elected a federal tax credit in lieu of a deduction. This deduction is
3 allowed only to the extent that a similar credit is not allowed by this
4 ~~Part Chapter~~ for the amount."

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

8 **REFORM TAX APPEALS CHANGES**

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

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

11 "(a) An annual franchise or privilege tax is imposed on a corporation doing
12 business in this State. The tax is determined on the basis of the books and records of the
13 corporation as of the close of its income year. A corporation subject to the tax must file
14 a return under affirmation with the Secretary at the place and in the manner prescribed
15 by the Secretary. The return must be signed by the president, vice-president, treasurer,
16 or chief financial officer of the corporation. The return is due on or before the fifteenth
17 day of the fourth month following the end of the corporation's income year.~~Every~~
18 ~~corporation, domestic and foreign, incorporated, or, by an act, domesticated under the~~
19 ~~laws of this State or doing business in this State, except as otherwise provided in this~~
20 ~~Article, shall, on or before the fifteenth day of the third month following the end of its~~
21 ~~income year, annually make and deliver to the Secretary in the form prescribed by the~~
22 ~~Secretary a full, accurate, and complete report and statement signed by either its~~
23 ~~president, vice president, treasurer, assistant treasurer, secretary or assistant secretary,~~
24 ~~containing the facts and information required by the Secretary as shown by the books~~
25 ~~and records of the corporation at the close of the income year.~~

26 ~~There shall be annexed to the return required by this subsection the affirmation of~~
27 ~~the officer signing the return."~~

28 **SECTION 3.(c)** Subsections (a) and (c) of this section are effective January
29 1, 2008. Subsection (b) of this section is effective for taxable years beginning on or
30 after January 1, 2009.

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

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

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

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

42 "(a) Procedure. – A taxpayer who objects to a proposed denial of a refund or a
43 proposed assessment of tax may request a Departmental review of the proposed action

1 by filing a request for review. The request must be filed with the Department ~~within 45~~
2 ~~days after the following:~~ as follows:

- 3 (1) ~~The~~ Within 45 days of the date the notice of the proposed denial of the
4 refund or proposed assessment was mailed to the taxpayer, if the
5 notice was delivered by mail.
- 6 (2) ~~The~~ Within 45 days of the date the notice of the proposed denial of the
7 refund or proposed assessment was delivered to the taxpayer, if the
8 notice was delivered in person.
- 9 (3) ~~The date that~~ At any time between the date that inaction by the
10 Department on a request for refund ~~was~~ is considered a proposed
11 denial of the ~~refund~~ refund and the date the time periods set in the
12 other subdivisions of this subsection expire."

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

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

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

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

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

26 "**§ 105-241.22. Collection of tax.**

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

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

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

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

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

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

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

- 40 (1) Law enforcement reports.
- 41 (2) Government agency lab reports used for the enforcement of motor fuel
42 tax laws."

43 **COLLECTION CHANGES**

1 SECTION 10.(a) G.S. 105-253 is recodified as G.S. 105-242.2 and reads as
2 rewritten:

3 **"§ 105-242.2. Personal liability when certain taxes not remitted, paid.**

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

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

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

8 a. The president, treasurer, or chief financial officer of a
9 corporation.

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

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

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

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

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

28 (1) ~~All sales and use taxes collected by a corporation or a limited liability~~
29 ~~company the business entity upon its taxable transactions.~~

30 (2) ~~All sales and use taxes due upon taxable transactions of a corporation~~
31 ~~or a limited liability company the business entity but upon which it~~
32 ~~failed to collect the tax, but only if the person knew, or in the exercise~~
33 ~~of reasonable care should have known, that the tax was not being~~
34 ~~collected.~~

35 (3) ~~All taxes due from a corporation or a limited liability company the~~
36 ~~business entity pursuant to the provisions of Articles 36C and 36D of~~
37 ~~Subchapter V of this Chapter and all taxes payable under those~~
38 ~~Articles by it to a supplier for remittance to this State or another state.~~

39 (4) ~~All income taxes required to be withheld from the wages of employees~~
40 ~~of a corporation or a limited liability company the business entity.~~

41 ~~The liability of the responsible officer is satisfied upon timely remittance of the tax~~
42 ~~by the corporation or the limited liability company. If the tax remains unpaid after it is~~
43 ~~due and payable, the Secretary may proceed to enforce the responsible officer's liability~~
44 ~~for the tax by sending the responsible officer a notice of proposed assessment in~~

1 ~~accordance with G.S. 105-241.9. As used in this section, the term "responsible officer"~~
2 ~~means the president, treasurer, and chief financial officer of a corporation, the manager~~
3 ~~of a limited liability company, and any other officer of a corporation or member of a~~
4 ~~limited liability company who has a duty to deduct, account for, or pay taxes listed in~~
5 ~~this subsection. Any penalties that may be imposed under G.S. 105-236 and that apply~~
6 ~~to a deficiency also apply to an assessment made under this section.~~

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

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

11 (d) Distributions. – An officer, partner, trustee, or receiver of a business entity
12 required to file a report with the Secretary who has custody of funds of the entity and
13 who allows the funds to be paid out or distributed to the owners of the entity without
14 having remitted to the Secretary any State taxes that are due is personally liable for the
15 payment of the tax. The Secretary may enforce an individual's liability under this
16 subsection by sending the individual a notice of proposed assessment in accordance
17 with G.S. 105-241.9.

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

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

23 SALES TAX CHANGES

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

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

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

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

35 OCCUPANCY TAX CHANGES

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

38 **§ 105-264.1. Secretary's interpretation applies to local taxes that are based on**
39 **State taxes.**

40 An interpretation by the Secretary of a law administered by the Secretary applies to a
41 local law administered by a unit of local government when the local law refers to the
42 State law to determine the application of the local law. A person who is subject to the
43 local law or the unit of local government that administers the local law may ask the
44 Secretary for an interpretation of the State law that determines the application of the

1 local law. An interpretation by the Secretary of a State law that determines the
2 application of a local law provides the same protections against liability under the local
3 law that it provides under the State law."

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

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

14 The tax shall be stated and charged separately from the sales records and shall be
15 paid by the purchaser to the operator of the business as trustee for and on account of the
16 taxing county. The tax shall be added to the sales price and shall be passed on to the
17 purchaser instead of being borne by the operator of the business.~~The~~

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

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

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

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

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

42 **MEDICAID TECHNICAL CHANGES**

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

44 **"§ 105-502. Use of additional tax revenue by counties.**

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

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

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

12 (b) Exception. – The Local Government Commission may, upon petition by a
13 county, authorize a county to use part or all of ~~its tax~~ the revenue, otherwise required by
14 subsection (a) to be used for public school capital outlay purposes, for any lawful
15 purpose. The petition ~~shall~~ must be in the form of a resolution adopted by the Board of
16 County Commissioners and transmitted to the Local Government Commission. The
17 petition ~~shall~~ must demonstrate that the county can provide for its public school capital
18 needs without restricting the use of part or all of the ~~designated amount of the additional~~
19 ~~one-half percent (1/2%) sales and use tax specified~~ revenue for these purposes.

20 In making its decision, the Local Government Commission ~~shall~~ must consider
21 information in the petition concerning not only the public school capital needs but also
22 the other capital needs of the petitioning county. The Commission may consider
23 information from sources other than the petition. The Commission ~~shall~~ must issue a
24 written decision on each petition stating the findings of the Commission concerning the
25 public school capital needs of the petitioning county and the percentage of revenue
26 otherwise restricted by subsection (a) that may be used by the petitioning county for any
27 lawful purpose.

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

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

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

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

3 **SECTION 14.(a)** G.S. 105-522, as enacted by Section 31.16.3(f) of S.L.
4 2007-323, reads as rewritten:

5 "**§ 105-522. City hold harmless for repealed local taxes.**

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

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

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

16 (b) Requirement. – A county is required to hold the eligible municipalities in the
17 county harmless from the repeal of the local sales and use taxes formerly imposed under
18 this Article. The Secretary must add an eligible municipality's hold harmless amount to
19 the amount ~~distributed to the otherwise allocated to the municipality for distribution~~
20 ~~under this Subchapter. To obtain the revenue for the hold harmless distribution, the~~
21 ~~Secretary must reduce each county's monthly allocation under G.S. 105-472(b) the~~
22 amount otherwise allocated to a county for distribution under Article 39 of this
23 Subchapter or under Chapter 1096 of the 1967 Session Laws by the hold harmless
24 amounts for the municipalities in that county."

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

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

27 **SECTION 14.(d)** Subsection (a) of this section becomes effective October
28 1, 2008, and applies to distributions for months beginning on or after that date. The
29 remainder of this section is effective when it becomes law.

30 **SECTION 15.(a)** G.S. 105-523, as enacted by Section 31.16.3(f) of S.L.
31 2007-323, reads as rewritten:

32 "**§ 105-523. County hold harmless for repealed local taxes.**

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

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

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

40 ~~(1)~~(2) Hold harmless threshold. – The amount of a county's Medicaid service
41 costs and Medicare Part D clawback payments assumed by the State
42 under G.S. 108A-54 for the fiscal year, less five hundred thousand
43 dollars (\$500,000).

1 ~~(2)(3)~~ Repealed sales tax amount. – Fifty percent (50%) of the amount of
2 sales and use tax revenue ~~distributed to a county under Article 40 of~~
3 ~~this Chapter, other than revenue from the sale of food that is subject to~~
4 ~~local tax but is exempt from State tax under G.S. 105-164.13B.~~
5 allocated under G.S. 105-486 for distribution to a county.

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

12 (d) Method. – The Secretary must estimate a county's repealed sales tax ~~amount~~
13 amount, city hold harmless amount, and hold harmless threshold for a fiscal year to
14 determine if the county is eligible for a hold harmless payment. The Secretary must
15 send to an eligible county with the distribution made under G.S. 105-472 for March of
16 that year an amount equal to ninety percent (90%) of its estimated hold harmless
17 payment. At the end of each fiscal year, the Secretary must determine ~~the difference~~
18 ~~between a county's repealed sales tax amount and its each county's hold harmless~~
19 ~~threshold payment~~ for that year. The Secretary must send by August 15 the remainder of
20 the county's hold harmless payment for the fiscal year that ended on June 30. The
21 Secretary of the Department of Human Resources must give the Secretary of Revenue
22 the data needed to determine a county's hold harmless threshold."

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

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

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

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

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

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

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

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

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

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

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

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

10 b. An amount determined by subtracting twenty-five percent
11 (25%) of the amount of sales and use tax revenue allocated
12 under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws
13 from fifty percent (50%) of the amount of sales and use tax
14 revenue allocated under G.S. 105-486. This calculation
15 determines the effect of distributing a one-quarter percent
16 (.25%) tax on the basis of point of origin instead of on a per
17 capita basis."

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

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

28 **SECTION 15.(j)** Subsection (a) of this section becomes effective October 1,
29 2008, and applies to distributions for months beginning on or after that date.
30 Subsections (g) and (h) of this section become effective October 1, 2009, and apply to
31 distributions for months beginning on or after that date. The remainder of this section is
32 effective when it becomes law.

33 **MOTOR FUEL TAX LAW CHANGES**

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

35 "**§ 105-449.37. Definitions; tax liability.**

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

37 (1) International Fuel Tax Agreement. – The Articles of Agreement
38 adopted by the International Fuel Tax Association, Inc., as amended as
39 of June 1, 2008.

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

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

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

8 ~~(2a)(5)~~ Person. – Defined in G.S. 105-228.90.

9 ~~(6)~~ Qualified motor vehicle. – Defined in the International Fuel Tax
10 Agreement.

11 ~~(3)(7)~~ Secretary. – ~~The Secretary of Revenue. Defined in G.S. 105-228.90.~~

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

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

16 "**§ 105-449.38. Tax levied.**

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

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

23 "**§ 105-449.44. How to determine the amount of fuel used in the State;**
24 **presumption of amount used.**

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

29 (b) Presumption. – The Secretary must check reports filed under this Article
30 against the weigh station records and other records of the Division of Motor Vehicles of
31 the Department of Transportation and the State Highway Patrol of the Department of
32 Crime Control and Public Safety concerning motor carriers to determine if motor
33 carriers that are operating in this State are filing the reports required by this Article. ~~The~~
34 ~~Department may assess a motor carrier for the amount payable based on the presumed~~
35 ~~mileage. A motor carrier that does either of the following for a quarter is presumed to~~
36 ~~have traveled in this State during that quarter the number of miles equal to 10 trips of~~
37 ~~450 miles each for each of the motor carrier's vehicles. If the records indicate that a~~
38 motor carrier operated in this State in a quarter and either did not file a report for that
39 quarter or understated its mileage in this State on a report filed for that quarter by at
40 least twenty-five percent (25%), the Secretary may assess the motor carrier for an
41 amount based on the motor carrier's presumed operations. The motor carrier is
42 presumed to have mileage in this State equal to 10 trips of 450 miles each for each of
43 the motor carrier's qualified motor vehicles and to have fuel usage of four miles per
44 gallon.

- 1 (1) ~~Fails to file a report for the quarter and the records of the Division~~
2 ~~indicate the carrier operated in this State during the quarter.~~
3 (2) ~~Files a report for the quarter that, based on the records of the Division,~~
4 ~~understates by at least twenty-five percent (25%) the carrier's mileage~~
5 ~~in this State for the quarter.~~

6 (c) Vehicles. – The number of qualified motor vehicles of a motor carrier that is
7 registered under this Article is the number of ~~identification markers~~ sets of decals issued
8 to the carrier. The number of qualified motor vehicles of a carrier that is not registered
9 under this Article is the number of qualified motor vehicles registered by the motor
10 carrier in the carrier's base state under the International Registration Plan."

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

12 "**§ 105-449.47. Registration of vehicles.**

13 (a) Requirement. – A motor carrier that is subject to the International Fuel Tax
14 Agreement may not operate or cause to be operated in this State ~~any vehicle listed in the~~
15 ~~definition of motor vehicle~~ a qualified motor vehicle unless both the motor carrier and
16 ~~the at least one qualified motor vehicle~~ are registered with the motor carrier's base state
17 jurisdiction. A motor carrier that is not subject to the International Fuel Tax Agreement
18 may not operate or cause to be operated in this State ~~any vehicle listed in the definition~~
19 ~~of motor vehicle~~ a qualified motor vehicle unless both the motor carrier and ~~the at least~~
20 one qualified motor vehicle are registered with the Secretary for purposes of the tax
21 imposed by this Article. This subsection applies to a motor carrier that operates a
22 recreational vehicle that is considered a qualified motor vehicle.

23 (a1) Registration and ~~Identification Marker~~ Decal. – When the Secretary registers
24 a motor carrier, the Secretary must issue a registration card for the motor carrier and at
25 ~~least one identification marker~~ a set of decals for each qualified motor vehicle ~~operated~~
26 ~~by the motor carrier~~ carrier registers. A motor carrier must keep records of
27 ~~identification markers~~ decals issued to it and must be able to account for all
28 ~~identification markers~~ decals it receives from the Secretary. Registrations and
29 ~~identification markers~~ decals issued by the Secretary are for a calendar year. All
30 ~~identification markers~~ decals issued by the Secretary remain the property of the State.
31 The Secretary may revoke a registration or ~~an identification marker~~ a decal when a
32 motor carrier fails to comply with this Article or Article 36C or 36D of this Subchapter.

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

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

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

1 **"§ 105-449.47A. Reasons why the Secretary can deny an application for a**
2 **registration and ~~identification marker~~.decals.**

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

- 5 (1) Had a registration issued under Chapter 105 or Chapter 119 of the
6 General Statutes cancelled by the Secretary for cause.
7 (2) Had a registration issued by another jurisdiction, pursuant to
8 G.S. 105-449.57, the International Fuel Tax Agreement, cancelled for
9 cause.
10 (3) Been convicted of fraud or misrepresentation.
11 (4) Been convicted of any other offense that indicates that the applicant
12 may not comply with this Article if registered and issued ~~an~~
13 ~~identification marker~~.a decal.
14 (5) Failed to remit payment for a tax debt under Chapter 105 or Chapter
15 119 of the General Statutes. The term "tax debt" has the same meaning
16 as defined in G.S. 105-243.1.
17 (6) Failed to file a return due under Chapter 105 or Chapter 119 of the
18 General Statutes."

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

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

21 **"§ 105-449.51. Violations declared to be misdemeanors.**

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

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

30 **"§ 105-449.52. Civil penalties applicable to motor carriers.**

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

- 33 (1) Operates in this State or causes to be operated in this State a qualified
34 motor vehicle that either fails to carry the registration card required by
35 this Article or fails to display ~~an identification marker~~ a decal in
36 accordance with this Article. The amount of the penalty is one hundred
37 dollars (\$100.00).
38 (2) Is unable to account for ~~identification markers~~ a decal the Secretary
39 issues the motor carrier, as required by G.S. 105-449.47. The amount
40 of the penalty is one hundred dollars (\$100.00) for each ~~identification~~
41 ~~marker decal for which~~ the carrier is unable to ~~account for~~ account.
42 (3) Displays ~~an identification marker~~ a decal on a qualified motor vehicle
43 operated by a motor carrier that was not issued to the carrier by the
44 Secretary under G.S. 105-449.47. The amount of the penalty is one

1 thousand dollars (\$1,000) for each ~~identification marker decal~~
 2 unlawfully obtained. Both the licensed motor carrier to whom the
 3 Secretary issued the ~~identification marker decal~~ and the motor carrier
 4 displaying the unlawfully obtained ~~identification marker decal~~ are
 5 jointly and severally liable for the penalty under this subdivision.

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

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

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

17 "**§ 105-449.60. Definitions.**

18 The following definitions apply in this Article:

19 (1) Additive. – A de minimus amount of product that is added or mixed
 20 with motor fuel. Examples of an additive include fuel system
 21 detergent, an oxidation inhibitor, gasoline antifreeze, or an octane
 22 enhancer.

23 (2) Aviation gasoline. – Fuel blended or produced specifically for use in
 24 an aircraft motor.

25 (1)(3) Biodiesel. – Any fuel or mixture of fuels derived in whole or in part
 26 from agricultural products or animal fats or wastes from these products
 27 or fats.

28 (1a)(4) Biodiesel provider. – A person who does any of the following:

29 a. Produces an average of no more than 500,000 gallons of
 30 biodiesel per month during a calendar year. A person who
 31 produces more than this amount is a refiner.

32 b. Imports biodiesel outside the terminal transfer system by means
 33 of a ~~marine vessel~~, a transport truck, a railroad tank car, or a
 34 tank wagon.

35 (1b) to (1d) ~~Reserved for future codification purposes.~~

36 (1e)(5) Blended fuel. – A mixture composed of gasoline or diesel fuel and
 37 another liquid, other than a ~~de minimus amount of a product such as~~
 38 carburetor detergent or oxidation inhibitor, an additive, that can be
 39 used as a fuel in a highway vehicle.

40 (2)(6) Blender. – A person who produces blended fuel outside the terminal
 41 transfer system.

42 (7) Bonded importer. – A person, other than a supplier, who imports by
 43 transport truck or another means of transfer outside the terminal

1 transfer system motor fuel removed from a terminal located in another
2 state in one or more of the following circumstances:

3 a. The state from which the fuel is imported does not require the
4 seller of the fuel to collect motor fuel tax on the removal of the
5 fuel at that state's rate or the rate of the destination state.

6 b. The supplier of the fuel is not an elective supplier.

7 c. The supplier of the fuel is not a permissive supplier.

8 ~~(3)~~(8) ~~Bulk end user.~~ Bulk end-user. – A person who maintains storage
9 facilities for motor fuel and uses part or all of the stored fuel to operate
10 a highway vehicle.

11 ~~(4)~~(9) Bulk plant. – A motor fuel storage and distribution facility that is not a
12 terminal and from which motor fuel may be removed at a rack.

13 ~~(5)~~(10) Code. – Defined in G.S. 105-228.90.

14 ~~(6)~~(11) Destination state. – The state, territory, or foreign country to which
15 motor fuel is directed for delivery into a storage facility, a receptacle, a
16 container, or a type of transportation equipment for the purpose of
17 resale or use.

18 ~~(7)~~(12) Diesel fuel. – Any liquid, other than gasoline, that is suitable for
19 use as a fuel in a diesel-powered highway vehicle. The term includes
20 biodiesel, fuel oil, heating oil, high-sulfur dyed diesel fuel, and
21 kerosene. The term does not include jet fuel sold to a buyer who is
22 ~~certified to purchase jet fuel under the Code.~~ fuel.

23 ~~(8)~~(13) Distributor. – A person who ~~acquires motor fuel from a supplier or~~
24 ~~from another distributor for subsequent sale.~~ does one or more of the
25 activities listed in this subdivision. The term does not include a person
26 who sells motor fuel only at retail.

27 a. Produces, refines, blends, compounds, or manufactures motor
28 fuel.

29 b. Transports motor fuel into a state or exports motor fuel out of a
30 state.

31 c. Engages in the distribution of motor fuel primarily by tank car
32 or tank truck or both.

33 d. Operates a bulk plant where the person has active motor fuel
34 bulk storage.

35 (14) Diversion. – The movement of motor fuel from a terminal to a state
36 other than the destination state indicated on the original bill of lading.

37 ~~(9)~~(15) Dyed diesel fuel. – Diesel fuel that meets the dyeing and marking
38 requirements of ~~§ 4082 of the Code.~~ as set out in 26 C.F.R. §
39 48.4082.1.

40 ~~(10)~~(16) Elective supplier. – A supplier that is required to be licensed in this
41 State and that elects to collect the excise tax due this State on motor
42 fuel that is removed by the supplier at a terminal located in another
43 state and has this State as its destination state.

1 ~~(10a)~~(17) Exempt card or code. – A credit card or an access code that enables
2 the person to whom the card or code is issued to buy motor fuel at
3 retail without paying the motor fuel excise tax on the fuel.

4 ~~(11)~~(18) Export. – To obtain motor fuel in this State for sale or other
5 distribution in another state. In applying this definition, motor fuel
6 delivered out-of-state by or for the seller constitutes an export by the
7 seller and motor fuel delivered out-of-state by or for the purchaser
8 constitutes an export by the purchaser.

9 ~~(12)~~(19) Fuel alcohol. – Alcohol, methanol, or fuel grade ethanol.

10 ~~(13)~~(20) Fuel alcohol provider. – A person who does any of the following:

11 a. Produces an average of no more than 500,000 gallons of fuel
12 alcohol per month during a calendar year. A person who
13 produces more than this amount is a refiner.

14 b. Imports fuel alcohol outside the terminal transfer system by
15 means of ~~a marine vessel~~, a transport truck, a railroad tank car,
16 or a tank wagon.

17 ~~(14)~~(21) Gasohol. – A blended fuel composed of gasoline and fuel grade
18 ethanol.

19 ~~(15)~~(22) Gasoline. – Any of the following:

20 a. All products that are commonly or commercially known or sold
21 as gasoline and are suitable for use as a fuel in a highway
22 vehicle, other than products that have an American Society for
23 Testing Materials octane number of less than 75 as determined
24 by the motor method. The term does not include aviation
25 gasoline.

26 b. A petroleum product component of gasoline, such as naptha,
27 reformate, or toluene.

28 c. Gasohol.

29 d. Fuel alcohol.

30 ~~The term does not include aviation gasoline sold for use in an aircraft~~
31 ~~motor. "Aviation gasoline" is gasoline that is designed for use in an~~
32 ~~aircraft motor and is not adapted for use in an ordinary highway~~
33 ~~vehicle.~~

34 ~~(16)~~(23) Gross gallons. – The total amount of motor fuel measured in
35 gallons, exclusive of any temperature, pressure, or other adjustments.

36 ~~(17)~~(24) Highway. – Defined in G.S. 20-4.01(13).

37 ~~(18)~~(25) Highway vehicle. – A self-propelled vehicle that is designed for
38 use on a highway.

39 ~~(19)~~(26) Import. – To bring motor fuel into this State by any means of
40 conveyance other than in the fuel supply tank of a highway vehicle. In
41 applying this definition, motor fuel delivered into this State from
42 out-of-state by or for the seller constitutes an import by the seller, and
43 motor fuel delivered into this State from out-of-state by or for the
44 purchaser constitutes an import by the purchaser.

- 1 ~~(19a)~~(27) ~~In State only~~ In-State supplier. – Either of the following:
- 2 a. A supplier that is required to have a license and elects not to
- 3 collect the excise tax due this State on motor fuel that is
- 4 removed by the supplier at a terminal located in another state
- 5 and has this State as its destination state.
- 6 b. A supplier that does business only in this State.
- 7 (28) Jet fuel. – Kerosene that meets all of the following requirements:
- 8 a. Has a maximum distillation temperature of 400 degrees
- 9 Fahrenheit at the ten percent (10%) recovery point and a final
- 10 maximum boiling point of 572 degrees Fahrenheit.
- 11 b. Meets American Society Testing Materials Specification D
- 12 1655 and Military Specifications MIL-T-5624P and
- 13 MIL-T-83133D, Grades JP-5 and JP-8.
- 14 (29) Kerosene. – Petroleum oil that is free from water, glue, and suspended
- 15 matter and that meets the specifications and standards adopted under
- 16 G.S. 119-26 by the Gasoline and Oil Inspection Board.
- 17 (30) Marine vessel. – A ship, boat, or other watercraft used or capable of
- 18 being used to move in or through a waterway.
- 19 ~~(20)~~(31) Motor fuel. – Gasoline, diesel fuel, and blended fuel.
- 20 ~~(21)~~(32) Motor fuel rate. – The rate of tax set in G.S. 105-449.80.
- 21 ~~(22)~~(33) Motor fuel transporter. – A person who transports motor fuel by
- 22 ~~pipeline or who transports motor fuel outside the terminal transfer~~
- 23 ~~system by means of a pipeline,~~ transport truck, a-railroad tank car, or a
- 24 marine vessel.
- 25 ~~(23)~~(34) Net gallons. – The amount of motor fuel measured in gallons when
- 26 corrected to a temperature of 60 degrees Fahrenheit and a pressure of
- 27 14 7/10 pounds per square inch.
- 28 (35) Occasional importer. – One or more of the following that imports
- 29 motor fuel by any means outside the terminal transfer system:
- 30 a. A distributor that imports motor fuel on an average basis of no
- 31 more than once a month during a calendar year.
- 32 b. A bulk end-user that acquires motor fuel for import from a bulk
- 33 plant and is not required to be licensed as a bonded importer.
- 34 c. A distributor that imports motor fuel for use in a race car.
- 35 ~~(24)~~(36) Permissive supplier. – An out-of-state supplier that elects, but is
- 36 not required, to have a supplier's license under this Article.
- 37 ~~(25)~~(37) Person. – Defined in G.S. 105-228.90.
- 38 (38) Pipeline. – A fuel distribution system that moves motor fuel, in bulk,
- 39 through a pipe either from a refinery to a terminal or from a terminal to
- 40 another terminal.
- 41 ~~(26)~~(39) Position holder. – The person who holds the inventory position ~~in~~
- 42 on the motor fuel in a terminal, as reflected on the records of the
- 43 terminal operator. A person holds the inventory position ~~in~~ on the
- 44 motor fuel when that person has a contract with the terminal operator

1 for the use of storage facilities and terminaling services for fuel at the
2 terminal. The term includes a terminal operator who owns fuel in the
3 terminal.

4 ~~(27)~~(40) Rack. – A mechanism for delivering motor fuel from a refinery, a
5 terminal, or a bulk plant into a transport truck, a railroad tank car, or
6 another means of transfer that is outside the terminal transfer system.

7 ~~(27a)~~(41) Refiner. – A person who owns, operates, or controls a refinery. The
8 term includes a person who produces an average of more than 500,000
9 gallons of fuel alcohol or biodiesel a month during a calendar year.

10 ~~(27b)~~(42) Refinery. – A facility used to process crude oil, unfinished oils,
11 natural gas liquids, or other hydrocarbons into motor fuel and from
12 which fuel may be removed by pipeline or vessel or at a rack. The term
13 does not include a facility that produces only blended fuel or gasohol.

14 ~~(28)~~(43) Removal. – A physical transfer other than by evaporation, loss, or
15 destruction. A physical transfer to a transport truck or another means
16 of conveyance outside the terminal transfer system is complete upon
17 delivery into the means of conveyance.

18 ~~(29)~~(44) Retailer. – A person who maintains storage facilities for motor fuel
19 and who sells the fuel at retail or dispenses the fuel at a retail location.

20 ~~(30)~~(45) Secretary. – Defined in G.S. 105-228.90.

21 ~~(31)~~(46) Supplier. – Any of the following:

- 22 a. A position holder or a person who receives motor fuel pursuant
23 to a two-party exchange.
- 24 b. A fuel alcohol provider.
- 25 c. A biodiesel provider.
- 26 d. A refiner.

27 ~~(32)~~(47) System transfer. – Either of the following:

- 28 a. A transfer of motor fuel within the terminal transfer system.
- 29 b. A transfer, by transport truck or railroad tank car, of fuel grade
30 ethanol.

31 ~~(33)~~(48) Tank wagon. – A truck that is not a transport truck and is designed
32 or used to carry at least 1,000 gallons of motor fuel.

33 ~~(49)~~ Tank wagon importer. – A person who imports only by means of a
34 tank wagon motor fuel that is removed from a terminal or a bulk plant
35 located in another state.

36 ~~(33a)~~(50) Tax. – An inspection or other excise tax on motor fuel and any
37 other fee or charge imposed on motor fuel on a per-gallon basis.

38 ~~(34)~~(51) Terminal. – A motor fuel storage and distribution facility that has
39 been assigned a terminal control number by the Internal Revenue
40 Service, is supplied by pipeline or marine vessel, and from which
41 motor ~~fuel~~ fuel, jet fuel, or aviation gasoline may be removed at a rack.

42 ~~(35)~~(52) Terminal operator. – A person who owns, operates, or otherwise
43 controls a terminal.

1 ~~(36)~~(53) Terminal transfer system. – The motor fuel distribution system
 2 consisting of refineries, pipelines, marine vessels, and terminals. The
 3 term has the same meaning as "bulk transfer/terminal system" under
 4 26 C.F.R. § 48.4081-1.

5 ~~(37)~~(54) Transmix. – Either of the following:

- 6 a. The buffer or interface between two different products in a
 7 pipeline shipment.
- 8 b. A mix of two different products within a refinery or terminal
 9 that results in an off-grade mixture.

10 ~~(38)~~(55) Transport truck. – A ~~semitrailer-tractor trailer combination rig~~
 11 designed or used to transport loads of motor fuel over a highway.

12 ~~(39)~~(56) Trustee. – A person who is licensed as a ~~supplier, an elective~~
 13 ~~supplier, or a permissive supplier~~ and who receives tax payments from
 14 and on behalf of a licensed ~~distributor~~distributor or licensed importer
 15 for remittance to the Secretary.

16 ~~(40)~~(57) Two-party exchange. – A transaction in which motor fuel is
 17 transferred from one licensed supplier to another licensed supplier
 18 pursuant to an exchange agreement under which the supplier that is the
 19 position holder agrees to deliver motor fuel to the other supplier or the
 20 other supplier's customer at the rack of the terminal at which the
 21 delivering supplier is the position holder.

22 ~~(41)~~(58) User. – A person who owns or operates a licensed highway vehicle
 23 that has a registered gross vehicle weight of at least 10,001 pounds and
 24 who does not maintain storage facilities for motor fuel."

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

26 **"§ 105-449.65. List of persons who must have a license.**

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

- 30 (1) A refiner.
- 31 (2) A supplier.
- 32 (3) A terminal operator.
- 33 (4) An importer.
- 34 (5) An exporter.
- 35 (6) A blender.
- 36 (7) A motor fuel ~~transporter~~transporter who transports motor fuel for hire.
- 37 (8) Repealed by Session Laws 1999-438, s. 20, effective August 10, 1999.
- 38 (9) Repealed by Session Laws 1999-438, s. 21, effective August 10, 1999.
- 39 (10) A distributor who purchases motor fuel from an elective or permissive
 40 supplier at an out-of-state terminal for import into this State.

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

- 1 (1) Supplier. – A person who is licensed as a supplier is considered to
2 have a license as a distributor. A person who is licensed as a supplier
3 and is a biodiesel provider is considered to have a license as a blender.
- 4 (2) Importer. – A person who is licensed as an occasional importer or a
5 tank wagon importer is not required to obtain a separate license as a
6 distributor unless the importer is also purchasing motor fuel, at the
7 terminal rack, from an elective or permissive supplier who is
8 authorized to collect and remit the tax to the State.
- 9 (3) Distributor. – A person who is licensed as a distributor is not required
10 to obtain a separate license as an importer if the distributor acquires
11 fuel for import only from an elective supplier or a permissive supplier
12 and is not required to obtain a separate license as an exporter. ~~A person~~
13 ~~who is licensed as a distributor or a blender and who transports fuel is~~
14 ~~considered to be licensed as a motor fuel transporter."~~

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

16 "**§ 105-449.66. ~~Types of importers; restrictions on who can get a license as an~~**
17 **importer.Importer licensing.**

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

- 21 (1) ~~Bonded importer.~~—A ~~bonded importer is a person, other than a~~
22 ~~supplier, who imports, by transport truck or another means of transfer~~
23 ~~outside the terminal transfer system, motor fuel removed from a~~
24 ~~terminal located in another state in any of the following circumstances:~~
25 a. ~~The state from which the fuel is imported does not require the~~
26 ~~seller of the fuel to collect motor fuel tax on the removal either~~
27 ~~at that state's rate or the rate of the destination state.~~
28 b. ~~The supplier of the fuel is not an elective supplier.~~
29 c. ~~The supplier of the fuel is not a permissive supplier.~~
- 30 (2) ~~Occasional importer.~~—An ~~occasional importer is any of the following~~
31 ~~that imports motor fuel by any means outside the terminal transfer~~
32 ~~system:~~
33 a. ~~A distributor that imports motor fuel on an average basis of no~~
34 ~~more than once a month during a calendar year.~~
35 b. ~~A bulk end user that acquires motor fuel for import from a bulk~~
36 ~~plant and is not required to be licensed as a bonded importer.~~
37 c. ~~A distributor that imports motor fuel for use in a race car.~~
- 38 (3) ~~Tank wagon importer.~~—A ~~tank wagon importer is a person who~~
39 ~~imports, only by means of a tank wagon, motor fuel that is removed~~
40 ~~from a terminal or a bulk plant located in another state.~~

41 (b) Restrictions.—A person may not be licensed as more than one type of
42 importer. A ~~bulk end user~~ bulk end-user that imports motor fuel from a terminal of a
43 supplier that is not an elective or a permissive supplier must be licensed as a bonded
44 importer. A ~~bulk end user~~ bulk end-user that imports motor fuel from a bulk plant and is

1 not required to be licensed as a bonded importer must be licensed as an occasional
2 importer. A ~~bulk end-user~~bulk end-user that imports motor fuel only from a terminal of
3 an elective or a permissive supplier is not required to be licensed as an importer."

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

5 "**§ 105-449.68. Restrictions on who can get a license as a distributor.**

6 A ~~bulk end-user~~bulk end-user of motor fuel may not be licensed as a distributor
7 unless the ~~bulk end-user~~bulk end-user also acquires motor fuel from a supplier or from
8 another distributor for subsequent sale. This restriction does not apply to a ~~bulk end-user~~
9 bulk end-user that was licensed as a distributor on January 1, 1996. If a distributor
10 license held by a ~~bulk end-user~~bulk end-user on January 1, 1996, is subsequently
11 cancelled, the ~~bulk end-user~~bulk end-user is subject to the restriction set in this
12 section."

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

14 "(c) Federal Certificate. – An applicant for a license as a refiner, a supplier, a
15 terminal operator, or a blender, ~~or a permissive supplier~~blender must have a federal
16 Certificate of Registry that is issued under § 4101 of the Code and authorizes the
17 applicant to enter into federal tax-free transactions in taxable motor fuel in the terminal
18 transfer system. An applicant that is required to have a federal Certificate of Registry
19 must include the registration number of the certificate on the application for a license
20 under this section.

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

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

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

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

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

37 "**§ 105-449.74. Issuance of license.**

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

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

1 "§ 105-449.75. License holder must notify the Secretary of discontinuance of
2 business.

3 A license holder that stops engaging in this State in the business for which the
4 license was issued must give the Secretary written notice of the change and must
5 surrender the license to the Secretary. The notice must give the date the change takes
6 effect and, if the license holder has transferred the business to another by sale or
7 otherwise, the date of the transfer and the name and address of the person to whom the
8 business is transferred.

9 ~~If the~~ The license holder is a supplier, responsible for all taxes for which the supplier
10 license holder is liable under this Article but are not yet ~~due~~ ~~become due on the date of~~
11 ~~the change due.~~ If the supplier-license holder has transferred the business to another and
12 does not give the notice required by this section, the person to whom the supplier
13 license holder has transferred the business is liable for the amount of any tax the
14 supplier-license holder owed the State on the date the business was transferred. The
15 liability of the person to whom the business is transferred is limited to the value of the
16 property acquired from the supplier-license holder."

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

18 "§ 105-449.81. Excise tax on motor fuel.

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

- 20 (1) Removed from a refinery or a terminal and, upon removal, is subject to
21 the federal excise tax imposed by § 4081 of the Code.
- 22 (2) Imported by a system transfer to a refinery or a terminal and, upon
23 importation, is subject to the federal excise tax imposed by § 4081 of
24 the Code.
- 25 (3) Imported by a means of transfer outside the terminal transfer system
26 for sale, use, or storage in this State and would have been subject to
27 the federal excise tax imposed by § 4081 of the Code if it had been
28 removed at a terminal or bulk plant rack in this State instead of
29 imported.
- 30 (3a) Repealed by Session Laws 2007-527, s. 38(a), effective January 1,
31 2008.
- 32 (3b) Fuel grade ethanol that meets any of the following descriptions:
- 33 a. Is produced in this State, is removed from the storage facility at
34 the production location, and is not delivered to a terminal in this
35 State.
- 36 b. Is imported to this State outside the terminal transfer system
37 and is not delivered to a terminal.
- 38 c. Is removed from a terminal.
- 39 (4) Blended fuel made in this State or imported to this State.
- 40 (5) Transferred within the terminal transfer system ~~and, and is subject,~~
41 ~~upon transfer, is subject to the federal excise tax imposed by section~~
42 ~~4081 of the Code. Code or is transferred to a person who is not~~
43 licensed under this Article as a supplier."

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

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

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

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

17 "**§ 105-449.83A. Liability for tax on fuel grade ethanol.**

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

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

23 "**§ 105-449.84A. Liability for tax on behind-the-rack transfers.**

24 The excise tax imposed by G.S. 105-449.81(5) on motor fuel that is transferred
25 within the terminal transfer system and is subject to the federal excise tax is payable by
26 the supplier of the fuel, the person receiving the fuel, and the terminal operator of the
27 terminal at which the fuel was transferred, all of whom are jointly and severally liable
28 for the tax. The excise tax imposed by that subdivision on motor fuel that is transferred
29 within the terminal transfer system by a person that is not licensed under this Article as
30 a supplier is payable by the person transferring the motor fuel, the person receiving the
31 motor fuel, and the terminal operation of the terminal at which the fuel was transferred,
32 all of whom are jointly and severally liable for the tax."

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

34 "**§ 105-449.85. Compensating tax on and liability for unaccounted for motor fuel**
35 **losses at a terminal.**

36 (a) Tax. – An excise tax at the motor fuel rate is imposed annually on
37 unaccounted for motor fuel losses at a terminal that exceed one-half of one percent
38 (0.5%) of the number of net gallons removed from the terminal during the year by a
39 system transfer or at a terminal rack. To determine if this tax applies, the terminal
40 operator of the terminal must determine the difference between the following:

- 41 (1) The amount of motor fuel in inventory at the terminal at the beginning
42 of the year plus the amount of motor fuel received by the terminal
43 during the year.

1 (2) The amount of motor fuel in inventory at the terminal at the end of the
2 year plus the amount of motor fuel removed from the terminal during
3 the year.

4 (b) Liability. – The terminal operator whose motor fuel is unaccounted for is
5 liable for the tax imposed by this section and is liable for a penalty equal to the amount
6 of tax payable. Motor fuel received by a terminal operator and not shown on an
7 informational return filed by the terminal operator with the Secretary as having been
8 removed from the terminal is presumed to be unaccounted for ~~for~~ for motor fuel. A
9 terminal operator may establish that it can account for motor fuel received at a terminal
10 but not shown on an informational return as having been removed from the terminal if
11 the motor fuel was lost or part of a ~~transmix~~ and is therefore not unaccounted for
12 transmix."

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

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

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

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

24 "(b) General Liability. – The operator of a highway vehicle that uses motor fuel
25 that is taxable under subdivisions (a)(1) through (a)(3) of this section is liable for the
26 tax. If the highway vehicle that uses the fuel is owned by or leased to a motor carrier,
27 the motor carrier is jointly and severally liable for the tax. If the ~~end-seller~~ end-seller of
28 motor fuel taxable under this section knew or had reason to know that the motor fuel
29 would be used for a purpose that is taxable under this section, the ~~end-seller~~ end-seller is
30 jointly and severally liable for the tax. If the Secretary determines that a ~~bulk end-user~~
31 bulk end-user or retailer used or sold untaxed dyed diesel fuel to operate a highway
32 vehicle when the fuel is dispensed from a storage facility or through a meter marked for
33 nonhighway use, all fuel delivered into that storage facility is presumed to have been
34 used to operate a highway vehicle. An ~~end-seller~~ end-seller of dyed diesel fuel is
35 considered to have known or had reason to know that the fuel would be used for a
36 purpose that is taxable under this section if the ~~end-seller~~ end-seller delivered the fuel
37 into a storage facility that was not marked as required by G.S. 105-449.123."

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

39 "**§ 105-449.89. ~~Removals by out-of-state bulk end-user~~ Restrictions on removal of**
40 **motor fuel from terminal.**

41 (a) By Bulk End-User. – An out-of-state ~~bulk end-user~~ bulk end-user may not
42 remove motor fuel from a terminal in this State for use in the state in which the
43 ~~bulk end-user~~ bulk end-user is located unless the ~~bulk end-user~~ bulk end-user is licensed

1 under this Article as an exporter. An out-of-state ~~bulk end user~~ bulk end-user that is not
2 licensed under this Article may remove motor fuel from a bulk plant in this State.

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

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

7 **"§ 105-449.91. Remittance of tax to supplier.**

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

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

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

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

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

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

33 **"§ 105-449.96. Information required on return filed by supplier.**

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

- 36 (1) The number of gallons of tax-paid motor fuel received by the supplier
37 during the month, sorted by type of ~~fuel, seller, point of origin,~~
38 ~~destination state, and carrier.fuel.~~
- 39 (2) The number of gallons of motor fuel removed at a terminal rack during
40 the month from the account of the supplier, sorted by type of ~~fuel,~~
41 ~~person receiving the fuel, terminal code, and carrier.fuel.~~
- 42 (3) The number of gallons of motor fuel removed during the month for
43 export, sorted by type of ~~fuel, person receiving the fuel, terminal code,~~
44 ~~destination state, and carrier.fuel.~~

- 1 (4) The number of gallons of motor fuel removed during the month at a
2 terminal located in another state for destination to this State, as
3 indicated on the shipping document for the fuel, sorted by type of fuel,
4 ~~person receiving the fuel, terminal code, and carrier.~~fuel.
- 5 (5) The number of gallons of motor fuel the supplier sold during the
6 month to a governmental unit whose use of fuel is exempt from tax,
7 ~~any of the following,~~ sorted by type of fuel, ~~exempt entity, person~~
8 ~~receiving the fuel, terminal code, and carrier.~~fuel.
- 9 a. ~~A governmental unit whose use of fuel is exempt from the tax.~~
10 b. ~~A licensed distributor or importer that resold the motor fuel to a~~
11 ~~governmental unit whose use of fuel is exempt from the tax, as~~
12 ~~indicated by the distributor or importer.~~
13 c. ~~A licensed exporter that resold the motor fuel to a person whose~~
14 ~~use of fuel is exempt from tax in the destination state, as~~
15 ~~indicated by the exporter.~~
- 16 (6) The amount of discounts allowed under G.S. 105-449.93(b) on motor
17 fuel sold during the month to licensed distributors or licensed
18 importers.
- 19 (7) The number of gallons of motor fuel the supplier exchanged during the
20 month with another licensed supplier pursuant to a two-party exchange
21 agreement, sorted by type of fuel, ~~licensed supplier receiving the fuel,~~
22 ~~and terminal code.~~fuel."

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

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

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

30 "**§ 105-449.100. Terminal operator to file informational return showing changes in**
31 **amount of motor fuel at the terminal.**

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

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

- 39 (1) The number of gallons of motor fuel received in inventory at the
40 terminal during the month and each position holder for the ~~fuel,~~fuel,
41 sorted by type of fuel.
- 42 (2) The number of gallons of motor fuel removed from inventory at the
43 terminal during the month and, for each removal, the position holder

1 for the fuel and the destination state of the ~~fuel~~-fuel, sorted by type of
2 fuel.

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

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

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

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

10 "**§ 105-449.101. Motor fuel transporter to file informational return showing**
11 **deliveries of motor fuel.**

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

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

17 (1) The name and address of each person from whom the transporter
18 received motor fuel outside the State for delivery in the State, the
19 amount of motor fuel received, the date the motor fuel was received,
20 and the destination state of the fuel.

21 (2) The name and address of each person from whom the transporter
22 received motor fuel in the State for delivery outside the State, the
23 amount of motor fuel delivered, the date the motor fuel was delivered,
24 and the destination state of the fuel.

25 (3) The name and address of each person from whom the transporter
26 received motor fuel in the State for delivery in the State, the amount of
27 motor fuel received, the date the motor fuel was received, and the
28 destination state of the fuel.

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

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

32 "**§ 105-449.102. Distributor to file return showing exports from a bulk plant.**

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

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

40 (1) The number of gallons of motor fuel exported during the month.

41 (2) The destination state of the motor fuel exported during the month.

42 (3) A certification that the distributor has paid to the destination state of
43 the motor fuel exported during the month, or will pay on a timely
44 basis, the amount of tax due that state on the fuel.

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

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

4 "**§ 105-449.105. Refunds upon application** ~~Monthly refunds for tax paid on exempt~~
5 ~~fuel, lost fuel, and accidental mixes that result in fuel unsalable~~
6 ~~unsuitable for highway use.~~

7 (a) Exempt Fuel. – An entity whose use of motor fuel is exempt from tax may
8 obtain a monthly refund of any motor fuel excise tax the entity pays on its motor fuel. A
9 person who sells motor fuel to an entity whose use of motor fuel is exempt from tax
10 may obtain a monthly refund of any motor fuel excise tax the person pays on motor fuel
11 it sells to the entity. A credit card company that issues a credit card to an entity whose
12 use of motor fuel is exempt from tax may obtain a monthly refund of any motor fuel
13 excise tax the company pays on motor fuel the entity purchases using the credit card.

14 A person may obtain a monthly refund of tax paid by the person on exported fuel,
15 including fuel whose shipping document shows this State as the destination state but
16 was diverted to another state in accordance with the diversion procedures established by
17 the Secretary. An out-of-state bulk end-user is not allowed a refund on fuel exported
18 from a bulk plant unless the bulk end-user is licensed as an exporter.

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

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

- 24 (1) Dyed diesel fuel with tax-paid motor fuel.
25 (2) Gasoline with diesel fuel.
26 (3) Undyed diesel fuel with dyed kerosene.

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

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

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

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

35"

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

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

- 42 a. Heating.
43 b. Drying crops.
44 c. A manufacturing process."

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

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

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

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

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

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

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

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

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

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

- (1) Audit ~~a distributor or~~ a person who is required to have or elects to have a license under this Article.
- (2) Audit a distributor, a retailer, a bulk-end user, or a motor fuel user that is not licensed under this Article.

- 1 (3) Examine a tank or other equipment used to make, store, or transport
- 2 motor fuel, diesel dyes, or diesel markers.
- 3 (4) Take a sample of a product from a vehicle, a tank, or another container
- 4 in a quantity sufficient to determine the composition of the product.
- 5 (5) Stop a vehicle for the purpose of taking a sample of motor fuel from
- 6 the vehicle."

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

8 **"§ 105-449.130. Definitions.**

9 The following definitions apply in this Article:

- 10 (1) Alternative fuel. – A combustible gas or liquid that can be used to
- 11 generate power to operate a highway vehicle and that is not subject to
- 12 tax under Article 36C of this Chapter.
- 13 (1a) ~~Bulk end user.~~ Bulk end-user. – A person who maintains storage
- 14 facilities for alternative fuel and uses part or all of the stored fuel to
- 15 operate a highway vehicle.
- 16 (2) Highway. – Defined in ~~G.S. 20-4.01(13).~~ G.S. 105-449.60.
- 17 (3) Highway vehicle. – Defined in G.S. 105-449.60.
- 18 (4) Motor fuel. – Defined in G.S. 105-449.60.
- 19 (5) Motor fuel rate. – Defined in G.S. 105-449.60.
- 20 (6) Provider of alternative fuel. – A person who does one or more of the
- 21 following:
- 22 a. Acquires alternative fuel for sale or delivery to a ~~bulk end user~~
- 23 bulk end-user or a retailer.
- 24 b. Maintains storage facilities for alternative fuel, part or all of
- 25 which the person uses or sells to someone other than a ~~bulk end~~
- 26 ~~user~~ bulk end-user or a retailer to operate a highway vehicle.
- 27 c. Sells alternative fuel and uses part of the fuel acquired for sale
- 28 to operate a highway vehicle by means of a fuel supply line
- 29 from the cargo tank of the vehicle to the engine of the vehicle.
- 30 d. Imports alternative fuel to this State, by a means other than the
- 31 usual tank or receptacle connected with the engine of a highway
- 32 vehicle, for use by that person to operate a highway vehicle.
- 33 (7) Retailer. – A person who maintains storage facilities for alternative
- 34 fuel and who sells the fuel at retail or dispenses the fuel at a retail
- 35 location to operate a highway vehicle."

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

37 **"§ 105-449.131. List of persons who must have a license.**

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

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

40 business:

- 41 (1) A provider of alternative fuel.
- 42 (2) A ~~bulk end user.~~ bulk end-user.
- 43 (3) A retailer."

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

1 (a) Who Must Have Bond. – The following applicants for a license must file with
2 the Secretary a bond or an irrevocable letter of credit:

3 (1) An alternative fuel provider.

4 (2) A retailer or a ~~bulk-end-user~~ bulk end-user that intends to store
5 highway and nonhighway alternative fuel in the same storage facility."

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

7 (a) Liability. – A ~~bulk-end-user~~ bulk end-user or retailer that stores highway and
8 nonhighway alternative fuel in the same storage facility is liable for the tax imposed by
9 this Article. The tax payable by a ~~bulk-end-user~~ bulk end-user or retailer applies when
10 fuel is withdrawn from the storage facility. The alternative fuel provider that sells or
11 delivers alternative fuel is liable for the tax imposed by this Article on all other
12 alternative fuel."

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

14 "**§ 105-449.138. Requirements for ~~bulk-end-users~~ bulk end-users and retailers.**

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

19 The return must give the following information and any other information required
20 by the Secretary:

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

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

23 (b) Storage. – A ~~bulk-end-user~~ bulk end-user or a retailer may store highway and
24 nonhighway alternative fuel in separate storage facilities or in the same storage facility.
25 If highway and nonhighway alternative fuel are stored in separate storage facilities, the
26 facility for the nonhighway fuel must be marked in accordance with the requirements
27 set by G.S. 105-449.123 for dyed diesel storage facilities. If highway and nonhighway
28 alternative fuel are stored in the same storage facility, the storage facility must be
29 equipped with separate metering devices for the highway fuel and the nonhighway fuel.
30 If the Secretary determines that a ~~bulk-end-user~~ bulk end-user or retailer used or sold
31 alternative fuel to operate a highway vehicle when the fuel was dispensed from a
32 storage facility or through a meter marked for nonhighway use, all fuel delivered into
33 that storage facility is presumed to have been used to operate a highway vehicle."

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

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

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

42 "**§ 119-15. Definitions that apply to Article.**

43 The following definitions apply in this Article:

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

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

2 ~~(1a)~~(3) Dyed diesel fuel. – Defined in G.S. 105-449.60.

3 ~~(1b)~~(4) Dyed diesel fuel distributor. – A person who acquires dyed diesel
4 fuel from either of the following:

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

9 b. Another dyed diesel fuel distributor.

10 ~~(2)~~(5) Gasoline. – Defined in G.S. 105-449.60.

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

12 ~~(3)~~(7) Kerosene. – Defined in G.S. 105-449.60. ~~Petroleum oil that is free
13 from water, glue, and suspended matter and that meets the
14 specifications and standards adopted by the Gasoline and Oil
15 Inspection Board.~~

16 ~~(3a)~~(8) Kerosene distributor. – A person who acquires kerosene from any
17 of the following for subsequent sale:

18 a. A supplier licensed under Part 2 of Article 36C of Chapter 105
19 of the General Statutes.

20 b. A kerosene supplier.

21 c. Another kerosene distributor.

22 ~~(3b)~~(9) Kerosene supplier. – Either of the following:

23 a. A person who supplies both kerosene and motor fuel and,
24 consequently, is required to be licensed under Part 2 of Article
25 36C of Chapter 105 of the General Statutes.

26 b. A person who is not required to be licensed as a supplier under
27 Part 2 of Article 36C of Chapter 105 of the General Statutes and
28 who maintains storage facilities for kerosene to be used to fuel
29 an airplane.

30 ~~(4)~~(10) Motor fuel. – Defined in G.S. 105-449.60.

31 ~~(5)~~(11) Person. – Defined in G.S. 105-229.90.

32 ~~(6)~~(12) Terminal. – Defined in G.S. 105-449.60.

33 ~~(7)~~(13) Terminal operator. – Defined in G.S. 105-449.60."

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

35 "(a) Tax. – An inspection tax of one fourth of one cent (1/4 of 1¢) per gallon is
36 levied upon all of the fuel listed in this subsection regardless of whether the fuel is
37 exempt from the per-gallon excise tax imposed by Article 36C or 36D of Chapter 105 of
38 the General Statutes. The inspection tax on motor fuel is due and payable to the
39 Secretary of Revenue ~~at the same time that~~ on the date the per gallon excise tax on
40 motor fuel is due and payable under Article 36C of Chapter 105 of the General Statutes.
41 The inspection tax on alternative fuel is due and payable to the Secretary of Revenue ~~at~~
42 ~~the same time that~~ on the date the excise tax on alternative fuel is due and payable under
43 Article 36D of Chapter 105 of the General Statutes. The inspection tax on kerosene is
44 payable monthly to the Secretary by a supplier that is licensed under Part 2 of Article

1 36C of Chapter 105 of the General Statutes and by a kerosene supplier. A monthly
2 report is due on the ~~same date as~~ a monthly return is due under G.S. 105-449.90 and
3 applies to kerosene sold during the preceding month by a supplier licensed under that
4 Part and to kerosene received during the preceding month by a kerosene supplier. A
5 kerosene terminal operator must file a return in accordance with the provisions of
6 G.S. 105-449.90. The inspection tax on jet fuel and aviation gasoline is payable as
7 specified by the Secretary of Revenue.

8 (1) Motor fuel.

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

10 (3) Kerosene.

11 (4) Jet fuel.

12 (5) Aviation gasoline."

13 **COMBINED MV REGISTRATION AND PROPERTY TAX SYSTEM** 14 **CHANGES**

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

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

17 "**§ 105-330.3. Assessor's duty to list classified motor vehicles; application for**
18 **exempt status.**

19 (a) (1) Registered Vehicles. The assessor shall list, appraise, and assess all
20 taxable classified motor vehicles for county, municipal, and special
21 district taxes each year in the name of the record owner as of the day
22 on which the current vehicle registration is renewed or the day on
23 which a new registration is applied for. The owner of a classified
24 motor vehicle listed pursuant to this subdivision need not list the
25 vehicle as provided in G.S. 105-306; G.S. 105-312 does not apply to
26 classified motor vehicles listed pursuant to this subdivision.

27 (2) Unregistered Vehicles. The owner of a classified motor vehicle who
28 does not register the vehicle or does not renew the registration of the
29 vehicle on or before the expiration date of the current registration shall
30 list the vehicle for taxes by filing an abstract with the assessor of the
31 county in which the vehicle is located on or before January 31
32 following the date the unregistered vehicle is acquired or, in the case
33 of a registration that is not renewed, January 31 following the date the
34 registration expires, and on or before January 31 of each succeeding
35 year that the vehicle is unregistered. If a classified motor vehicle listed
36 pursuant to this section is registered during the calendar year in which
37 it was listed, it shall be taxed for the fiscal year that opens in the
38 calendar year of listing as an unregistered vehicle. A vehicle required
39 to be listed pursuant to this subdivision that is not listed by January 31
40 shall be subject to discovery pursuant to ~~G.S. 105-312~~. G.S. 105-312,
41 unless the vehicle has been taxed as a registered vehicle for the current
42 year.

43 (b) The owner of a classified motor vehicle who claims an exemption or
44 exclusion from tax under this Subchapter has the burden of establishing that the vehicle

1 is entitled to the exemption or exclusion. The owner may establish prima facie
2 entitlement to exemption or exclusion of the classified motor vehicle by filing an
3 application for exempt status with the assessor. When an approved application is on file,
4 the assessor shall omit from the tax records classified motor vehicles described in the
5 application. An application is not required for vehicles qualifying for exemptions or
6 exclusions listed in G.S. 105-282.1(a)(1).

7 (c) The owner of a classified motor vehicle that has been omitted from the tax
8 records as provided in subsection (b) shall report to the assessor any classified motor
9 vehicle registered in the owner's name or owned by him that does not qualify for
10 exemption or exclusion for the current year. This report shall be made within 30 days
11 after the renewal of registration or initial registration of the vehicle or, for an
12 unregistered vehicle, on or before January 31 of the year in which the vehicle is required
13 to be listed by subdivision (a)(2). A classified motor vehicle that does not qualify for
14 exemption or exclusion but has been omitted from the tax records as provided in
15 subsection (b) is subject to discovery under the provisions of G.S. 105-312, except that
16 in lieu of the penalties prescribed by G.S. 105-312(h) there shall be assessed a penalty
17 of one hundred dollars (\$100.00) for each registration period that elapsed before the
18 disqualification was discovered.

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

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

21 "**§ 105-330.10. (Effective until January 1, 2010) Combined Motor Vehicle and**
22 **Registration AccountDisposition of interest.**

23 ~~Sixty percent (60%) of the first month's interest collected on unpaid taxes pursuant~~
24 ~~to G.S. 105-330.4 shall be transferred on a monthly basis to the Combined Motor~~
25 ~~Vehicle and Registration Account created within the Treasurer's Office. Interest~~
26 ~~generated by the funds in the Combined Motor Vehicle and Registration Account shall~~
27 ~~be credited to the Account. The Office of State Budget and Management shall direct the~~
28 ~~Treasurer to distribute the funds in the Account to the Division of Motor Vehicles for~~
29 ~~the purpose of developing and implementing an integrated computer system within the~~
30 ~~Division of Motor Vehicles that would allow for the combined assessment, billing, and~~
31 ~~collection of property taxes on motor vehicles and the issuance of registration plates.~~
32 ~~Funds in the Account shall not be transferred by the Office of State Budget and~~
33 ~~Management and appropriated by the General Assembly until the Department of~~
34 ~~Transportation and the North Carolina Association of County Commissioners reach~~
35 ~~agreement on a project plan for the integrated system. The Treasurer shall report to the~~
36 ~~Revenue Laws Study Committee semiannually with the first report due by April 30,~~
37 ~~2006. The report shall contain a detailed description of the amount of moneys~~
38 ~~transferred to the Account and distributed from the Account. Any funds remaining in~~
39 ~~the Account after the integrated computer system has been certified to be in operation~~
40 ~~shall be distributed to the local governments on a pro rata basis determined by the first~~
41 ~~month's interest collected on the unpaid taxes on classified motor vehicles and paid into~~
42 ~~the Account by each local government.~~

43 (a) Account. – The Combined Motor Vehicle and Registration Account is
44 established as a nonreverting account within the Department of State Treasurer. A

1 taxing unit must remit to the Department of State Treasurer for deposit into the Account
2 sixty percent (60%) of the first month's interest collected under G.S. 105-330.4 on
3 unpaid property taxes on classified and registered motor vehicles. The taxing unit must
4 make the remittance on a monthly basis. Interest earned by the Account accrues to the
5 Account.

6 (b) Use. – Funds in the Account may be used only to develop and implement an
7 integrated computer system within the Division of Motor Vehicles of the Department of
8 Transportation that provides the functions needed for the assessment, billing, and
9 collection of both the property taxes and the vehicle registration fees due on motor
10 vehicles. The funds may not be transferred to the Division and expended for this
11 purpose until the Department of Transportation and the North Carolina Association of
12 County Commissioners agree on the project plan for the integrated system and the
13 General Assembly appropriates the funds to the Division. If funds remain in the
14 Account after the operation of the integrated system is certified, the remaining funds
15 must be distributed to local governments on a pro rata basis determined on the amount
16 of revenue each local government transferred to the Account.

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

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

25 **"§ 105-330.11. Memorandum of understanding.**

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

- 30 (1) A procedure for the administration of the listing, appraisal, and
31 assessment of classified motor vehicles.
- 32 (2) Information concerning vehicle identification, identification of a
33 vehicle owner by name and address, and other information that will be
34 required on a motor vehicle registration form to implement the tax
35 listing and collection provisions of this Article.
- 36 (3) A procedure for the business practices, accounting, and costs of
37 carrying out the integrated computer system for registration renewal
38 and property tax collection for motor vehicles once the system has
39 been certified to be in operation by the Department of Revenue and the
40 Department of Transportation. The Departments must consult with the
41 North Carolina Association of County Commissioners, acting on
42 behalf of the counties, and the North Carolina League of
43 Municipalities, acting on behalf of the municipalities, in developing

1 the procedures under this subdivision and obtain their signed
2 endorsements before any part of this procedure is implemented."

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

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

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

14 **"SECTION 22.(d)** Subsection (c) of this section becomes effective ~~January 1,~~
15 ~~2010,~~January 1, 2011, or when the Division of Motor Vehicles of the Department of
16 Transportation and the Department of Revenue certify that the integrated computer
17 system for registration renewal and property tax collection for motor vehicles is in
18 operation, whichever occurs first. The remainder of this section is effective when it
19 becomes law."

20 **OTHER CHANGES**

21 **SECTION 67.(a)** G.S. 58-5-25(a)(2) is repealed.

22 **SECTION 67.(b)** This section is effective for taxable years beginning on or
23 after January 1, 2008.

24 **SECTION 68.(a)** G.S. 105-113.112 reads as rewritten:

25 **"§ 105-113.112. Confidentiality of information.**

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

30 (1) G.S. 105-259 prohibits the disclosure of the information, except in the
31 limited circumstances provided in that statute.

32 (2) The information may not be used as evidence, as defined in
33 G.S. 15A-971, in a criminal prosecution for an offense other than an
34 offense under this Article or under Article 9 of this Chapter. Under this
35 prohibition, no officer, employee, or agent of the Department may
36 testify about the information in a criminal prosecution for an offense
37 other than an offense under this Article or under Article 9 of this
38 Chapter. This subdivision implements the protections against double
39 jeopardy and self-incrimination set out in Amendment V of the United
40 States Constitution and the restrictions in it apply regardless of
41 whether information may be disclosed under G.S. 105-259. This
42 subdivision does not apply to information obtained from a source other
43 than an employee, officer, or agent of the Department. This
44 subdivision does not prohibit testimony by an officer, employee, or

1 agent of the Department concerning an offense committed against that
2 individual in the course of administering this Article. An officer,
3 employee, or agent of the Department who provides evidence or
4 testifies in violation of this subdivision is guilty of a Class 1
5 misdemeanor."

6 **SECTION 68.(b)** This section becomes effective December 1, 2008, and
7 applies to offenses committed on or after that date.

8 **SECTION 69.** G.S. 105-129.2A(a4) reads as rewritten:

9 "(a4) Sunset for Taxpayers That Sign a Letter of Commitment. – Notwithstanding
10 subsection (a) of this section, in the case of a taxpayer that signs a letter of commitment
11 with the Department of Commerce on or before December 31, 2006, stating the
12 taxpayer's intent to create new jobs or make new investments with respect to machinery
13 and equipment, central office or aircraft facility property, or substantial investments in
14 other real property at a specific site in this State, this Article is repealed effective for
15 business activities that occur on or after January 1, 2008. If a taxpayer elects to take any
16 credit under the provisions of this subsection for activities occurring in the 2007 taxable
17 year, the taxpayer may not take any credit under Article ~~3I~~3J of this Chapter with
18 respect to the same establishment for activities occurring in the 2007 taxable year."

19 **SECTION 70.** G.S. 105-129.16H(a) reads as rewritten:

20 "(a) Credit. – A taxpayer who donates money to a tax-exempt nonprofit
21 organization for the purpose of providing funds for the organization to construct,
22 purchase, or lease renewable energy property is allowed a credit under this section if the
23 nonprofit organization uses the donation for its intended purpose. A tax-exempt
24 nonprofit organization is an organization that is exempt from tax under section
25 501(c)(3) of the Code.

26 The amount of the credit allowed in this section is the taxpayer's share of the credit
27 the nonprofit organization could claim under G.S. 105-129.16A if the nonprofit
28 organization were subject to tax. The taxpayer's share of the credit is calculated by
29 dividing the taxpayer's donation by the cost of the renewable energy property
30 constructed, purchased, or leased by the nonprofit organization and placed in service
31 during the taxable year and then multiplying this percentage by the amount of the credit
32 the nonprofit organization could claim if it were subject to tax. A taxpayer must take the
33 credit allowed by this section ~~in the year~~for the taxable year in which the property is
34 placed in service. The installment requirements in G.S. 105-129.16A for nonresidential
35 property do not apply to the credit allowed in this section."

36 **SECTION 71.** G.S. 105-251 reads as rewritten:

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

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

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

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

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

12 **SECTION 72.** G.S. 105-275(29) reads as rewritten:

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

21 **SECTION 73.(a)** Part 2D of Article 10 of Chapter 143B of the General
22 Statutes is repealed.

23 **SECTION 73.(b)** G.S. 66-58(b)(21) is repealed.

24 **SECTION 73.(c)** G.S. 120-123(72) is repealed.

25 **SECTION 73.(d)** G.S. 126-5(c1)(20) is repealed.

26 **SECTION 73.(e)** G.S. 143B-437.45 reads as rewritten:

27 **"§ 143B-437.45. Definitions.**

28 The following definitions apply in this Part:

29 ...

30 (5) ~~Regional Partnerships. As defined in G.S. 143B-437.21(6).~~
31 partnership. – Any of the following:

32 a. The Western North Carolina Regional Economic Development
33 Commission created in G.S. 158-8.1.

34 b. The North Carolina's Northeast Commission created in
35 G.S. 158-8.2.

36 c. The Southeastern North Carolina Regional Economic
37 Development Commission created in G.S. 158-8.3.

38 d. The North Carolina's Eastern Region Development Commission
39 created in G.S. 158-35.

40 e. The Charlotte Regional Partnership, Inc.

41 f. The Research Triangle Regional Partnership.

42 g. The Piedmont Triad Partnership.

43"

1 **SECTION 74.(a)** Article 43 of Chapter 105 of the General Statutes, as
2 enacted by Section 1 of S.L. 1997-417, is amended by adding a new section to read:

3 **"§ 105-506.1. Exemption of food.**

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

7 **SECTION 74.(b)** G.S. 105-509, as enacted by Section 1 of S.L. 1997-417,
8 reads as rewritten:

9 **"§ 105-509. Levy and collection of sales and use tax.**

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

18 ~~A tax levied under this Article does not apply to the sales price of food that is not~~
19 ~~otherwise exempt from tax pursuant to G.S. 105-164.13 but would be exempt from the~~
20 ~~State sales and use tax pursuant to G.S. 105-164.13 if it were purchased with coupons~~
21 ~~issued under the Food Stamp Program, 7 U.S.C. § 51."~~

22 **SECTION 75.** G.S. 105-538 reads as rewritten:

23 **"§ 105-538. Administration of taxes.**

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

34 **SECTION 76.(a)** Part 1 of Article 16 of Chapter 153A of the General
35 Statutes is amended by adding a new section to read:

36 **"§ 153A-304.4. Reduction in law enforcement service district after annexation.**

37 When any portion of a county law enforcement service district organized under
38 G.S. 153A-301(10) is annexed by a municipality, and the effective date of the
39 annexation is a date other than a date in the month of June, the amount of the county
40 law enforcement service district tax levied on each parcel of real property in the district
41 for the fiscal year in which municipal taxes are prorated under G.S. 160A-58.10 shall be
42 multiplied by the following fraction: the denominator shall be 12 and the numerator
43 shall be the number of full calendar months remaining in the fiscal year following the
44 day on which the annexation becomes effective. For each parcel of real property in the

1 portion of the district that is annexed, the product of the multiplication is the amount of
2 the law enforcement service district tax to be refunded if the taxes have been paid, or
3 released if the taxes have not been paid. The finance officer of the county shall obtain
4 from the assessor or tax collector of the county a list of the owners of the real property
5 on which law enforcement service district taxes were levied in the territory annexed,
6 and the county shall pay the refund amount, if applicable, to the owner as shown on the
7 records of the tax assessor of the real property as of the January 1 immediately
8 preceding the date of the refund. Refund payments shall come from any funds not
9 otherwise restricted by law."

10 **SECTION 76.(b)** G.S. 153A-304.1(c) reads as rewritten:

11 "(c) When all or part of a county service district is annexed, and the effective date
12 of the annexation is a date other than a date in the month of June, the amount of the
13 county service district tax levied on property in the district for the fiscal year in which
14 municipal taxes are prorated under G.S. 160A-58.10 shall be multiplied by the
15 following fraction: the denominator shall be 12 and the numerator shall be the number
16 of full calendar months remaining in the fiscal year following the day on which the
17 annexation becomes effective. For each owner, the product of the multiplication is the
18 prorated fire protection payment. The finance officer of the city shall obtain from the
19 ~~tax supervisor-assessor~~ or tax collector of the county where the annexed territory was
20 located a list of the owners of property on which fire protection district taxes were
21 levied in the territory being annexed, and the city shall, no later than 90 days after the
22 effective date of the annexation, pay the amount of the prorated fire protection district
23 payment to the owners of that property. Such payments shall come from any funds not
24 otherwise restricted by law."

25 **SECTION 76.(c)** G.S. 153A-301(10) reads as rewritten:

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

- 27 a. The population of the county is over 500,000 according to the
28 most recent federal decennial census.
- 29 b. The county has an interlocal agreement with a city in the county
30 under which the city provides law enforcement services in the
31 entire unincorporated area of the county.
- 32 e. ~~The county will pay to the city the following percentages of the~~
33 ~~city county police department budget if there are no significant~~
34 ~~changes to the city's statutory annexation authority:~~
- 35 1. ~~9.60% for fiscal years 1995-96 and 1996-97.~~
 - 36 2. ~~7.60% for fiscal years 1997-98 and 1998-99.~~
 - 37 3. ~~5.60% for fiscal years 1999-2000 and 2000-2001.~~
 - 38 4. ~~3.60% for fiscal years 2001-02 and 2002-03.~~
 - 39 5. ~~1.60% for fiscal years 2003-04 and 2004-05.~~

40 ~~Provided, if the difference between the ratio of the population in~~
41 ~~the unincorporated area to the total population served by the~~
42 ~~city county police department and the rate for the current year~~
43 ~~as stated above is greater than fifteen percent (15%), the~~

1 county's agreement to pay such percentages can be amended to
2 reflect that difference."

3 **SECTION 76.(d)** Subsection (a) of this section applies to annexations in
4 fiscal year 2006-2007 or a subsequent fiscal year. The remainder of this section is
5 effective when it becomes law.

6 **SECTION 77.** G.S. 158-12.1 reads as rewritten:

7 "**§ 158-12.1. Commission funds secured.**

8 The Western North Carolina Regional Economic Development Commission,
9 Research Triangle Regional ~~Commission, Partnership,~~ Southeastern North Carolina
10 Regional Economic Development Commission, Piedmont Triad Partnership, North
11 Carolina's Northeast Commission, North Carolina's Eastern Region Development
12 Commission, and Carolinas Partnership, Inc., may deposit money at interest in any
13 bank, savings and loan association, or trust company in this State in the form of savings
14 accounts, certificates of deposit, or such other forms of time deposits as may be
15 approved for county governments. Investment deposits and money deposited in an
16 official depository or deposited at interest shall be secured in the manner prescribed in
17 G.S. 159-31(b). When deposits are secured in accordance with this section, no public
18 officer or employee may be held liable for any losses sustained by an institution because
19 of the default or insolvency of the depository. This section applies to the regional
20 economic development commissions listed in this section only for as long as the
21 commissions are receiving State funds."

22 **SECTION 78.** An employee of the State may provide tax information about
23 tax credits claimed under former Article 3A or current Article 3J of Chapter 105 of the
24 General Statutes to the University of North Carolina at Chapel Hill (University) to
25 enable the University to compile statistical information to fulfill a contractual obligation
26 between the University and the North Carolina General Assembly, on behalf of the Joint
27 Select Committee on Economic Development Incentives established by the President
28 Pro Tempore of the Senate and the Speaker of the House of Representatives on March
29 2, 2007. In lieu of extracting the needed information from these tax returns, the State
30 may provide a copy of the returns to the University so the University can extract the
31 information. The disclosure allowed by this section is an exception to G.S. 105-259. A
32 person to whom a disclosure is made under this section is subject to the same
33 confidentiality requirements as an employee of the State who has access to tax
34 information.

35 **EFFECTIVE DATES**

36 **SECTION 79.** Sections 16 through 60 of this act become effective January
37 1, 2009. Except as otherwise provided, the remainder of this act is effective when it
38 becomes law.