

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 639

Short Title: Transportation Funding Bill.

(Public)

Sponsors: Senator Tarte (Primary Sponsor).

Referred to: Rules and Operations of the Senate.

March 30, 2015

A BILL TO BE ENTITLED

AN ACT TO MODIFY THE MOTOR FUEL EXCISE TAX RATE, TO ESTABLISH A
TRANSPORTATION INFRASTRUCTURE ACCESS FEE, TO IMPOSE A ROAD
USAGE TAX ON CERTAIN MOTOR CARRIERS, TO ELIMINATE THE STATUTORY
TRANSFER OF PROCEEDS FROM THE MOTOR FUEL EXCISE TAX, AND TO
PROHIBIT THE CONSTRUCTION OF TOLL PROJECTS UNLESS AUTHORIZED
PURSUANT TO A LOCAL GOVERNMENT REFERENDUM.

The General Assembly of North Carolina enacts:

PART I. MOTOR FUELS TAX RATE

SECTION 1.(a) G.S. 105-449.80 reads as rewritten:

"§ 105-449.80. Tax rate.

(a) ~~Rate.~~—The motor fuel excise tax rate is a flat rate of seventeen and one half cents (17 1/2¢) a gallon plus a variable wholesale component. The variable wholesale component is either three and one half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale price of motor fuel for the applicable base period, whichever is greater, as follows:

(1) A flat rate of nineteen cents (19¢) a gallon on diesel fuel.

(2) A flat rate of nine cents (9¢) a gallon on all other motor fuels.

~~The two base periods are six month periods; one ends on September 30 and one ends on March 31. The Secretary must set the tax rate twice a year based on the wholesale price for each base period. A tax rate set by the Secretary using information for the base period that ends on September 30 applies to the six month period that begins the following January 1. A tax rate set by the Secretary using information for the base period that ends on March 31 applies to the six month period that begins the following July 1.~~

(b) ~~Wholesale Price.~~—The Secretary must determine the average wholesale price of motor fuel for each base period. To do this, the Secretary must use information on refiner and gas plant operator sales prices of finished motor gasoline and No. 2 diesel fuel for resale, published by the United States Department of Energy in the "Monthly Energy Review", or equivalent data.

~~The Secretary must compute the average sales price of finished motor gasoline for the base period, compute the average sales price for No. 2 diesel fuel for the base period, and then compute a weighted average of the results of the first two computations based on the proportion of tax collected on each under this Article for the base period. The Secretary must then convert the weighted average price to a cents per gallon rate and round the rate to the nearest one tenth of a cent (1/10¢). If the converted cents per gallon rate is exactly between two tenths of a cent (2/10¢) the Secretary must round the rate up to the higher of the two.~~



(e) Notification. — The Secretary must notify affected taxpayers of the tax rate to be in effect for each six-month period beginning January 1 and July 1."

SECTION 1.(b) G.S. 105-449.107(c) reads as rewritten:

"(c) Sales Tax Amount. – Article 5 of Subchapter I of this Chapter determines the amount of State sales and use tax to be deducted under this section from a motor fuel excise tax refund. Articles 39, 40, and 42 of Subchapter VIII of this Chapter and the Mecklenburg First 1% Sales Tax Act determine the amount of local sales and use tax to be deducted under this section from a motor fuel excise tax refund. ~~The sales price and the cost price of motor fuel to be used in determining the amount to deduct is the average of the wholesale prices used under G.S. 105-449.80 to determine the excise tax rates in effect for the two six-month periods of the year for which the refund is claimed.~~"

SECTION 1.(c) G.S. 150B-2(8a) reads as rewritten:

"(8a) "Rule" means any agency regulation, standard, or statement of general applicability that implements or interprets an enactment of the General Assembly or Congress or a regulation adopted by a federal agency or that describes the procedure or practice requirements of an agency. The term includes the establishment of a fee and the amendment or repeal of a prior rule. The term does not include the following:

- ...
- j. Establishment of the interest rate that applies to tax assessments under ~~G.S. 105-241.21 and the variable component of the excise tax on motor fuel under G.S. 105-449.80.~~ G.S. 105-241.21.
-"

SECTION 1.(d) This section becomes effective for taxable years beginning on or after January 1, 2018.

PART II. INFRASTRUCTURE ACCESS FEE

SECTION 2.(a) Article 3 of Chapter 20 of the General Statutes is amended by adding a new section to read:

"§ 20-97.1. Infrastructure Access Fee.

(a) Fee. – In addition to the fees imposed by G.S. 20-87 and G.S. 20-88, the following fees are imposed on each vehicle; the fees are based on the weight of the vehicle:

SCHEDULE OF WEIGHTS AND FEES

	<u>Amount</u>
<u>Not over 4,000 pounds</u>	<u>\$100.00</u>
<u>4,001 to 9,000 pounds inclusive</u>	<u>\$125.00</u>
<u>9,001 to 13,000 pounds inclusive</u>	<u>\$150.00</u>
<u>13,001 to 17,000 pounds inclusive</u>	<u>\$175.00</u>
<u>Over 17,000 pounds</u>	<u>\$200.00</u>

(b) Payment Frequency. – The fees imposed under subsection (a) of this section are annual and due at the same time as the fees imposed by G.S. 20-87 and G.S. 20-88.

(c) Exceptions. – This section shall not apply to any of the following:

- (1) A mobile home subject to G.S. 20-87.
- (2) A semitrailer or trailer subject to G.S. 20-88(c).
- (3) A motor vehicle eligible for a permanent registration plate under G.S. 20-84.

(d) Use of Proceeds. – Twenty-five percent (25%) of the total revenue collected from the per-vehicle fees imposed under subsection (a) of this section shall be credited to the North Carolina Highway Trust Fund. The remainder of the fee revenue shall be credited to the North Carolina Highway Fund. Notwithstanding any other provision of law, no fee revenue generated under this section shall be transferred to the General Fund or to other State agencies or departments. Upon appropriation by the General Assembly, all fee revenue generated under this

1 section shall be used by the Department of Transportation and for transportation purposes
 2 only."

3 **SECTION 2.(b)** This section becomes effective January 1, 2017, and applies to the
 4 registration and licensing of motor vehicles on or after that date.

5
 6 **PART III. MOTOR CARRIER TAX**

7 **SECTION 3.(a)** Article 36B of Chapter 105 of the General Statutes reads as
 8 rewritten:

9 "Article 36B.

10 "~~Tax~~Taxes on Motor Carriers.

11 "**§ 105-449.37. Definitions; tax liability; application.**

12 ...

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

16 (c) **Application.** – A motor carrier who operates a qualified motor vehicle in this State
 17 must register the vehicle as provided in this Article and obtain the appropriate license and
 18 decals for the vehicle. The Article applies to both an interstate motor carrier subject to the
 19 International Fuel Tax Agreement and to an intrastate motor carrier.

20 "**§ 105-449.38. ~~Tax~~Taxes levied.**

21 (a) **Taxes Levied.** – A road tax for the privilege of using the streets and highways of
 22 this State is imposed upon every motor carrier on (i) the amount of motor fuel or alternative
 23 fuel used by the carrier in its operations within this ~~State.~~State and (ii) the frequency of the
 24 motor carrier's use of the streets and highways of this State. The tax on the amount of motor
 25 fuel or alternative fuel used by the carrier in its operations shall be at the rate established by the
 26 Secretary pursuant to G.S. 105-449.80 or G.S. 105-449.136, as appropriate. ~~This tax is in~~
 27 ~~addition to any other taxes imposed on motor carriers.~~ The tax on the frequency of the motor
 28 carrier's use of the streets and highways of this State shall be in accordance with the weight
 29 group tax rates set forth in subsection (b) of this section.

30 (b) **Weight Group Tax Rates.** – The tax on the frequency of the motor carrier's use of
 31 the streets and highways of this State shall be computed by multiplying the mileage of travel in
 32 this State by the appropriate weight group tax rate as it appears in the tables below:

<u>Weight Groups of 80,000 Pounds and Below</u>		<u>Fee Rates Per Mile</u>
<u>Declared Combined Weight Groups</u>		
<u>(Pounds)</u>		<u>(Mills)</u>
<u>26,001 to</u>	<u>28,000</u>	<u>49.8</u>
<u>28,001 to</u>	<u>30,000</u>	<u>52.8</u>
<u>30,001 to</u>	<u>32,000</u>	<u>55.2</u>
<u>32,001 to</u>	<u>34,000</u>	<u>57.6</u>
<u>34,001 to</u>	<u>36,000</u>	<u>59.9</u>
<u>36,001 to</u>	<u>38,000</u>	<u>63.0</u>
<u>38,001 to</u>	<u>40,000</u>	<u>65.4</u>
<u>40,001 to</u>	<u>42,000</u>	<u>67.7</u>
<u>42,001 to</u>	<u>44,000</u>	<u>70.2</u>
<u>44,001 to</u>	<u>46,000</u>	<u>72.6</u>
<u>46,001 to</u>	<u>48,000</u>	<u>74.9</u>
<u>48,001 to</u>	<u>50,000</u>	<u>77.4</u>
<u>50,001 to</u>	<u>52,000</u>	<u>80.3</u>
<u>52,001 to</u>	<u>54,000</u>	<u>83.3</u>
<u>54,001 to</u>	<u>56,000</u>	<u>86.4</u>

1	<u>56,001 to</u>	<u>58,000</u>	<u>90.0</u>
2	<u>58,001 to</u>	<u>60,000</u>	<u>94.1</u>
3	<u>60,001 to</u>	<u>62,000</u>	<u>99.0</u>
4	<u>62,001 to</u>	<u>64,000</u>	<u>104.5</u>
5	<u>64,001 to</u>	<u>66,000</u>	<u>110.4</u>
6	<u>66,001 to</u>	<u>68,000</u>	<u>118.3</u>
7	<u>68,001 to</u>	<u>70,000</u>	<u>126.6</u>
8	<u>70,001 to</u>	<u>72,000</u>	<u>135.0</u>
9	<u>72,001 to</u>	<u>74,000</u>	<u>142.7</u>
10	<u>74,001 to</u>	<u>76,000</u>	<u>150.0</u>
11	<u>76,001 to</u>	<u>78,000</u>	<u>157.2</u>
12	<u>78,001 to</u>	<u>80,000</u>	<u>163.8</u>

Weight Groups of Above 80,000 Pounds

	<u>Declared Combined</u> <u>Weight Groups</u> <u>(Pounds)</u>	<u>Number of Axles and Fee Rates Per Mile</u>				
		<u>5</u>	<u>6</u>	<u>7</u> <u>(Mills)</u>	<u>8</u>	<u>9 or more</u>
18	<u>80,001 to 82,000</u>	<u>169.2</u>	<u>154.8</u>	<u>144.7</u>	<u>137.4</u>	<u>129.6</u>
19	<u>82,001 to 84,000</u>	<u>174.7</u>	<u>157.2</u>	<u>147.0</u>	<u>139.2</u>	<u>131.3</u>
20	<u>84,001 to 86,000</u>	<u>179.9</u>	<u>160.9</u>	<u>149.4</u>	<u>140.9</u>	<u>133.2</u>
21	<u>86,001 to 88,000</u>	<u>186.0</u>	<u>164.3</u>	<u>151.8</u>	<u>143.4</u>	<u>135.0</u>
22	<u>88,001 to 90,000</u>	<u>193.2</u>	<u>168.6</u>	<u>154.3</u>	<u>145.8</u>	<u>137.4</u>
23	<u>90,001 to 92,000</u>	<u>201.6</u>	<u>173.4</u>	<u>156.5</u>	<u>148.2</u>	<u>139.8</u>
24	<u>92,001 to 94,000</u>	<u>210.7</u>	<u>178.2</u>	<u>159.0</u>	<u>150.5</u>	<u>141.7</u>
25	<u>94,001 to 96,000</u>	<u>220.2</u>	<u>183.6</u>	<u>162.0</u>	<u>153.0</u>	<u>143.9</u>
26	<u>96,001 to 98,000</u>	<u>230.4</u>	<u>190.2</u>	<u>165.6</u>	<u>155.5</u>	<u>146.4</u>
27	<u>98,001 to 100,000</u>		<u>197.3</u>	<u>169.2</u>	<u>158.4</u>	<u>148.8</u>
28	<u>100,001 to 102,000</u>			<u>172.8</u>	<u>162.0</u>	<u>151.3</u>
29	<u>102,001 to 104,000</u>			<u>176.4</u>	<u>165.6</u>	<u>154.3</u>
30	<u>104,001 to 105,500</u>			<u>181.1</u>	<u>169.2</u>	<u>157.2</u>

(c) Declared Combined Weight. – The declared combined weight of a motor carrier shall be determined in accordance with G.S. 20-88.

(d) Construction. – Nothing in this section shall be construed as prohibiting the imposition or assessment of other taxes and fees required by law.

(e) Prohibition on Use of Funds. – Notwithstanding any other provision of law, no revenue generated under this section shall be transferred to the General Fund or to other State agencies or departments. Upon appropriation by the General Assembly, all revenue generated under this section shall be used by the Department of Transportation and for transportation purposes only.

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

Every motor carrier subject to the tax levied by this Article on the amount of motor fuel or alternative fuel used by the motor carrier is entitled to a credit on its quarterly return for tax paid by the carrier on fuel purchased in the State. The amount of the credit is determined using the flat cents per gallon rate plus the variable cents per gallon rate of tax motor fuel excise tax rate in effect during the quarter covered by the return. To obtain a credit, the motor carrier must furnish evidence satisfactory to the Secretary that the tax for which the credit is claimed has been paid.

If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor carrier's liability for that quarter, the excess is refundable in accordance with G.S. 105-241.7.

"§ 105-449.40. Secretary may require bond.

1 (a) Authority. – The Secretary may require a motor carrier to furnish a bond when any
2 of the following occurs:

3 (1) The motor carrier fails to file a return within the time required by this
4 Article.

5 (2) The motor carrier fails to pay ~~a tax~~ the taxes when due under this Article.

6 (3) After auditing the motor carrier's records, the Secretary determines that a
7 bond is needed to protect the State from loss in collecting the ~~tax~~ taxes due
8 under this Article.

9 (b) Amount. – A bond required of a motor carrier under this section may not be more
10 than the larger of the following amounts:

11 (1) Five hundred dollars (\$500.00).

12 (2) Four times the motor carrier's average tax liability or refund for a reporting
13 period.

14 A bond must be in the form required by the Secretary.

15 ...

16 **"§ 105-449.42. Payment of tax.**

17 The ~~tax~~ taxes levied by this Article ~~is~~ are due when a motor carrier files a quarterly return
18 under G.S. 105-449.45. The amount of tax due on the amount of motor fuel or alternative fuel
19 used by the motor carrier is calculated on the amount of motor fuel or alternative fuel used by
20 the motor carrier in its operations within this State during the quarter covered by the return. The
21 amount of tax due on the frequency of the motor carrier's use of the streets and highways of this
22 State is calculated in accordance with G.S. 105-449.38(b) for the quarter covered by the return.

23 ...

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

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

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

40 (c) Vehicles. – The number of qualified motor vehicles of a motor carrier that is
41 registered under this Article is the number of sets of decals issued to the carrier. The number of
42 qualified motor vehicles of a carrier that is not registered under this Article is the number of
43 qualified motor vehicles registered by the motor carrier in the carrier's base state under the
44 International Registration Plan.

45 ...

46 **"§ 105-449.46. Inspection of books and records.**

47 The Secretary and his authorized agents and representatives shall have the right at any
48 reasonable time to inspect the books and records of any motor carrier subject to the ~~tax~~ taxes
49 imposed by this Article or to the registration fee imposed by Article 3 of Chapter 20 of the
50 General Statutes.

51 **"§ 105-449.47. Registration of vehicles.**

1 (a) Requirement. – A motor carrier may not operate or cause to be operated in this State
2 a qualified motor vehicle unless both the motor carrier and at least one qualified motor vehicle
3 are registered as provided in this subsection. This subsection applies to a motor carrier that
4 operates a recreational vehicle that is considered a qualified motor vehicle. A motor carrier that
5 is subject to the International Fuel Tax Agreement must register with the motor carrier's base
6 state jurisdiction. A motor carrier that is not subject to the International Fuel Tax Agreement
7 must register with the Secretary for purposes of the ~~tax~~taxes imposed by this Article.

8 ...
9 **"§ 105-449.49. Temporary permits.**

10 ...
11 (b) Refusal. – The Secretary may refuse to issue a temporary permit to any of the
12 following:

- 13 (1) A motor carrier whose registration has been withheld or revoked.
14 (2) A motor carrier who the Secretary determines is evading payment of ~~tax~~
15 taxes through the successive purchase of temporary permits.

16 ...
17 **"§ 105-449.57. Cooperative agreements between jurisdictions.**

18 (a) Authority. – The Secretary may enter into cooperative agreements with other
19 jurisdictions for exchange of information in administering the ~~tax~~taxes imposed by this Article.
20 No agreement, arrangement, declaration, or amendment to an agreement is effective until stated
21 in writing and approved by the Secretary.

22 (b) Content. – An agreement may provide for determining the base state for motor
23 carriers, records requirements, audit procedures, exchange of information, persons eligible for
24 tax licensing, defining qualified motor vehicles, determining if bonding is required, specifying
25 reporting requirements and periods, including defining uniform penalty and interest rates for
26 late reporting, determining methods for collecting and forwarding of motor carrier taxes and
27 penalties to another jurisdiction, and any other provisions that will facilitate the administration
28 of the agreement.

29 (c) Disclosure. – In accordance with G.S. 105-259, the Secretary may, as required by
30 the terms of an agreement, forward to officials of another jurisdiction any information in the
31 Department's possession relative to the use of motor fuel or alternative fuel by any motor
32 carrier. The Secretary may disclose to officials of another jurisdiction the location of offices,
33 motor vehicles, and other real and personal property of motor carriers.

34 (d) Audits. – An agreement may provide for each jurisdiction to audit the records of
35 motor carriers based in the jurisdiction to determine if the taxes due each jurisdiction are
36 properly reported and paid. Each jurisdiction must forward the findings of the audits performed
37 on motor carriers based in the jurisdiction to each jurisdiction in which the carrier has ~~taxable~~
38 use of motor fuel or alternative fuel. ~~taxes due.~~ For motor carriers not based in this State, the
39 Secretary may utilize the audit findings received from another jurisdiction as the basis upon
40 which to propose assessments of taxes against the carrier as though the audit had been
41 conducted by the Secretary. Penalties and interest must be assessed at the rates provided in the
42 agreement.

43"

44 **SECTION 3.(b)** This section becomes effective for taxable years beginning on or
45 after January 1, 2017.

46
47 **PART IV. ELIMINATE STATUTORY TRANSFERS OF PROCEEDS FROM MOTOR**
48 **FUEL EXCISE TAX**

49 **SECTION 4.(a)** G.S. 75A-3(c) reads as rewritten:

50 "(c) The Boating Account is established within the Wildlife Resources Fund created
51 under G.S. 143-250. Interest and other investment income earned by the Account accrues to the

1 Account. All moneys collected pursuant to the numbering and titling provisions of this Chapter
 2 shall be credited to this Account. ~~Motor fuel excise tax revenue is credited to the Account~~
 3 ~~under G.S. 105-449.126.~~ The Commission shall use revenue in the Account, subject to the
 4 Executive Budget Act and the Personnel Act, for the administration and enforcement of this
 5 Chapter; for activities relating to boating and water safety including education and waterway
 6 marking and improvement; and for boating access area acquisition, development, and
 7 maintenance. The Commission shall use at least three dollars (\$3.00) of each one-year
 8 certificate of number fee and at least nine dollars (\$9.00) of each three-year certificate of
 9 number fee collected under the numbering provisions of G.S. 75A-5 for boating access area
 10 acquisition, development, and maintenance. The Commission shall transfer on a quarterly basis
 11 fifty percent (50%) of each one-year certificate of number fee and fifty percent (50%) of each
 12 three-year certificate of number fee collected under the numbering provisions of G.S. 75A-5 to
 13 the Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund established by
 14 G.S. 143-215.73F."

15 **SECTION 4.(b)** G.S. 105-449.125 reads as rewritten:

16 "**§ 105-449.125. Distribution of tax revenue among various funds and accounts.**

17 ~~The Secretary shall allocate the amount of revenue collected under this Article from an~~
 18 ~~excise tax of one-half cent (1/2¢) a gallon to the following funds and accounts in the fraction~~
 19 ~~indicated:~~

<u>Fund or Account</u>	<u>Amount</u>
Commercial Leaking Petroleum	
Underground Storage Tank Cleanup Fund	Nineteen thirty-seconds
Noncommercial Leaking Petroleum	
Underground Storage Tank Cleanup Fund	Three thirty-seconds
Water and Air Quality Account	Five sixteenths.

26 The Secretary shall allocate seventy-five percent (75%) of the ~~remaining~~ excise tax revenue
 27 collected under this Article to the Highway Fund and shall allocate twenty-five percent (25%)
 28 to the Highway Trust Fund.

29 The Secretary shall charge a proportionate share of a refund allowed under this Article to
 30 each fund or account to which revenue collected under this Article is credited. The Secretary
 31 shall credit revenue or charge refunds to the appropriate funds or accounts on a monthly basis."

32 **SECTION 4.(c)** G.S. 105-449.126 is repealed.

33 **SECTION 4.(d)** G.S. 136-41.1(a) reads as rewritten:

34 "(a) ~~There is annually appropriated out of the State Highway Fund a sum equal to ten~~
 35 ~~and four tenths percent (10.4%) of the net amount after refunds that was produced during the~~
 36 ~~fiscal year by the tax imposed under Article 36C of Chapter 105 of the General Statutes and on~~
 37 ~~the equivalent amount of alternative fuel taxed under Article 36D of that Chapter. One-half~~
 38 Upon appropriation of funds by the General Assembly from the Highway Fund to
 39 municipalities for State street-aid, one-half of the amount appropriated shall be allocated in
 40 cash on or before October 1 of each year to the cities and towns of the State in accordance with
 41 this section. The second one-half of the amount appropriated shall be allocated in cash on or
 42 before January 1 of each year to the cities and towns of the State in accordance with this
 43 section. ~~The appropriation from the Highway Fund shall be based on revenue collected during~~
 44 ~~the fiscal year preceding the date the distribution is made.~~

45 "...."

46 **SECTION 4.(e)** G.S. 143-215.3A(a) reads as rewritten:

47 "(a) The Water and Air Quality Account is established as an account within the
 48 Department. Revenue in the Account shall be applied to the costs of administering the
 49 programs for which the fees were collected. ~~Revenue credited~~ Any funds appropriated by the
 50 General Assembly from the Highway Fund to the Account pursuant to G.S. 105-449.43,
 51 G.S. 105-449.125, and G.S. 105-449.136 Account shall be used to administer the air quality

1 program. Any funds credited to the Account from fees collected for laboratory facility
2 certifications under G.S. 143-215.3(a)(10) that are not expended at the end of each fiscal year
3 for the purposes for which these fees may be used under G.S. 143-215.3(a)(10) shall revert.
4 Any other funds credited to the Account that are not expended at the end of each fiscal year
5 shall not revert. Except for the following fees, all application fees and permit administration
6 fees collected by the State for permits issued under Articles 21, 21A, 21B, and 38 of this
7 Chapter shall be credited to the Account:

- 8 (1) Fees collected under Part 2 of Article 21A and credited to the Oil or Other
9 Hazardous Substances Pollution Protection Fund.
- 10 (2) Fees credited to the Title V Account.
- 11 (3) Repealed by Session Laws 2005-454, s. 7, effective January 1, 2006.
- 12 (4) Fees collected under G.S. 143-215.28A.
- 13 (5) Fees collected under G.S. 143-215.94C shall be credited to the Commercial
14 Leaking Petroleum Underground Storage Tank Cleanup Fund."

15 **SECTION 4.(f)** G.S. 143-215.73F reads as rewritten:

16 **"§ 143-215.73F. Shallow Draft Navigation Channel Dredging and Lake Maintenance**
17 **Fund.**

18 The Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund is
19 established as a special revenue fund. The Fund consists of fees credited to it under ~~G.S. 75A-3,~~
20 ~~75A-38, and 105-449.126.~~ G.S. 75A-3 and G.S. 75A-38. Revenue in the Fund may only be
21 used to provide the State's share of the costs associated with any dredging project designed to
22 keep shallow draft navigation channels located in State waters or waters of the state located
23 within lakes navigable and safe, or for aquatic weed control projects in waters of the State
24 located within lakes under Article 15 of Chapter 113A of the General Statutes. Funding for
25 aquatic weed control projects is limited to five hundred thousand dollars (\$500,000) in each
26 fiscal year. Any project funded by revenue from the Fund must be cost-shared with non-State
27 dollars on a one-to-one basis, provided that the cost-share for a lake located within a
28 component of the State Parks System shall be provided by the Division of Parks and Recreation
29 of the Department of Environment and Natural Resources. The Division of Parks and
30 Recreation may use funds allocated to the State Parks System for capital projects under
31 G.S. 113-44.15 for the cost-share. For purposes of this section, "shallow draft navigation
32 channel" means (i) a waterway connection with a maximum depth of 16 feet between the
33 Atlantic Ocean and a bay or the Atlantic Intracoastal Waterway, (ii) a river entrance to the
34 Atlantic Ocean through which tidal and other currents flow, or (iii) other interior coastal
35 waterways. "Shallow draft navigation channel" includes the Atlantic Intracoastal Waterway and
36 its side channels, Beaufort Harbor, Bogue Inlet, Carolina Beach Inlet, the channel from Back
37 Sound to Lookout Back, channels connected to federal navigation channels, Lockwoods Folly
38 River, Manteo/Shallowbag Bay, including Oregon Inlet, Masonboro Inlet, New River, New
39 Topsail Inlet, Rodanthe, Rollinson, Shallotte River, Silver Lake Harbor, and the waterway
40 connecting Pamlico Sound and Beaufort Harbor."

41 **SECTION 4.(g)** Notwithstanding G.S. 143C-5-2, and beginning in the 2017-2018
42 fiscal year, appropriations of recurring funds from the Highway Fund shall be made according
43 to the following schedule:

- 44 (1) One hundred forty-six million six hundred forty thousand dollars
45 (\$146,640,000) to the Department of Transportation to be allocated and used
46 in accordance with G.S. 136-41.1.
- 47 (2) Two million three hundred fifty thousand dollars (\$2,350,000) to the
48 Wildlife Resources Fund to be used in accordance with G.S. 143-250.
- 49 (3) Eight million three hundred fifty-nine thousand sixty-three dollars
50 (\$8,359,063) to the Water and Air Quality Account to be used in accordance
51 with G.S. 143-215.3A(a).

- 1 (4) Two million three hundred fifty thousand dollars (\$2,350,000) to the
2 Shallow Draft Navigation Channel Dredging and Lake Maintenance Fund to
3 be used in accordance with G.S. 143-215.73F.
- 4 (5) Fifteen million eight hundred eighty-two thousand two hundred nineteen
5 dollars (\$15,882,219) to the Commercial Leaking Petroleum Underground
6 Storage Tank Cleanup Fund to be used in accordance with
7 G.S. 143-215.94B.
- 8 (6) Two million five hundred seven thousand seven hundred nineteen dollars
9 (\$2,507,719) to the Noncommercial Leaking Petroleum Underground
10 Storage Tank Cleanup Fund to be used in accordance with
11 G.S. 143-215.94D.

12 **SECTION 4.(h)** This section becomes effective July 1, 2017.

13
14 **PART V. PROHIBITION ON NEW TOLLING, SUBJECT TO A LOCAL**
15 **REFERENDUM**

16 **SECTION 5.(a)** G.S. 136-11.1 reads as rewritten:

17 "**§ 136-11.1. Local consultation on transportation ~~projects-projects; toll project~~**
18 **referendum.**

19 (a) Requirement. – Prior to any action of the Board on a transportation project, the
20 Department shall inform all municipalities and counties affected by a planned transportation
21 project and request each affected municipality or county to submit within 45 days a written
22 resolution expressing their views on the project. A municipality or county may designate a
23 Transportation Advisory Committee to submit its response to the Department's request for a
24 resolution. Upon receipt of a written resolution from all affected municipalities and counties or
25 their designees, or the expiration of the 45-day period, whichever occurs first, the Board may
26 take action. The Department and the Board shall consider, but shall not be bound by, the views
27 of the affected municipalities and counties on each transportation project. The failure of a
28 county or municipality to express its views within the time provided shall not prevent the
29 Department or the Board from taking action. The Department shall not be required to send
30 notice under this section if it has already received a written resolution from the affected county
31 or municipality on the planned transportation project. "Action of the Board", as used in this
32 section, means approval by the Board of: the Transportation Improvement Program and
33 amendments to the Transportation Improvement Program; the Secondary Roads Paving
34 Program and amendments to the Secondary Roads Paving Program; and individual applications
35 for access and public service road projects, contingency projects, small urban projects, and spot
36 safety projects that exceed one hundred fifty thousand dollars (\$150,000). The 45-day
37 notification provision may be waived upon a finding by the Secretary of Transportation that
38 emergency action is required. Such findings must be reported to the Joint Legislative
39 Transportation Oversight Committee.

40 (b) Toll Project Referendum. – Effective August 1, 2015, the Department or the
41 Turnpike Authority, as applicable, shall not establish or construct a road, bridge, or tunnel
42 project that will be financed with tolls, user fees, or any other direct charge to users of the
43 transportation infrastructure, unless approved by a majority of the voters in each of the counties
44 in which the road, bridge, or tunnel project will be located. The Department or the Turnpike
45 Authority, as applicable, may direct the respective county board or boards of elections to
46 conduct an advisory referendum on the question of whether the Department or the Turnpike
47 Authority, as applicable, may establish or construct a road, bridge, or tunnel project in the
48 county that will be financed with tolls, user fees, or any other direct charge to users of the
49 transportation infrastructure. The election shall be held on a date jointly agreed upon by the
50 Department or the Turnpike Authority, as applicable, the county board or boards of

1 commissioners, and the county board or boards of elections and shall be held on a date
2 permitted by and in accordance with the procedures of G.S. 163-287."

3 **SECTION 5.(b)** G.S. 136-18 reads as rewritten:

4 **"§ 136-18. Powers of Department of Transportation.**

5 The said Department of Transportation is vested with the following powers:

6 ...
7 (39) To enter into partnership agreements with private entities, and authorized
8 political subdivisions to finance, by tolls, contracts, and other financing
9 methods authorized by law, the cost of acquiring, constructing, equipping,
10 maintaining, and operating transportation infrastructure in this State, and to
11 plan, design, develop, acquire, construct, equip, maintain, and operate
12 transportation infrastructure in this ~~State~~State, provided that the Department
13 shall not enter into any partnership agreement or any construction contract
14 under a partnership agreement providing for financing with tolls, user fees,
15 or any other direct charge to users of the transportation infrastructure on or
16 after August 1, 2015, unless authorized pursuant to a referendum under
17 G.S. 136-11.1. An agreement entered into under this subdivision requires the
18 concurrence of the Board of Transportation. The Department shall report to
19 the Chairs of the Joint Legislative Transportation Oversight Committee, the
20 Chairs of the House of Representatives Appropriations Subcommittee on
21 Transportation, and the Chairs of the Senate Appropriations Committee on
22 the Department of Transportation, at the same time it notifies the Board of
23 Transportation of any proposed agreement under this subdivision. No
24 contract for transportation infrastructure subject to such an agreement that
25 commits the Department to make nonretainage payments for undisputed
26 capital costs of a completed transportation infrastructure to be made later
27 than 18 months after final acceptance by the Department of such
28 transportation infrastructure shall be executed without approval of the Local
29 Government Commission. Any contracts for construction of highways,
30 roads, streets, and bridges which are awarded pursuant to an agreement
31 entered into under this section shall comply with the competitive bidding
32 requirements of Article 2 of this Chapter.

33 (39a) a. The Department of Transportation or Turnpike Authority, as
34 applicable, may enter into up to three agreements with a private
35 entity as provided under subdivision (39) of this section for which
36 the provisions of this section apply.

37 ...

38 f. Agreements entered into under this subdivision shall comply with the
39 following additional provisions:

- 40 1. The Department shall solicit proposals for agreements.
- 41 2. Agreement shall be limited to no more than 50 years from the
42 date of the beginning of operations on the toll facility.
- 43 3. Notwithstanding the provisions of G.S. 136-89.183(a)(5), and
44 subject to the limitation on tolling set forth in subdivision
45 (39) of this section, all initial tolls or fees to be charged by a
46 private entity shall be reviewed by the Turnpike Authority
47 Board. Prior to setting toll rates, either a set rate or a
48 minimum and maximum rate set by the private entity, the
49 private entity shall hold a public hearing on the toll rates,
50 including an explanation of the toll setting methodology, in
51 accordance with guidelines for the hearing developed by the

1 Department. After tolls go into effect, the private entity shall
 2 report to the Turnpike Authority Board 30 days prior to any
 3 increase in toll rates or change in the toll setting methodology
 4 by the private entity from the previous toll rates or toll setting
 5 methodology last reported to the Turnpike Authority Board.

6"

7 **SECTION 5.(c)** G.S. 136-89.183 reads as rewritten:

8 "**§ 136-89.183. Powers of the Authority.**

9 (a) The Authority shall have all of the powers necessary to execute the provisions of
 10 this Article, including the following:

11 ...

12 (2) To study, plan, develop, and undertake preliminary design work on up to
 13 nine Turnpike Projects. At the conclusion of these activities, the Turnpike
 14 Authority is authorized to design, establish, purchase, construct, operate, and
 15 maintain the following projects:

16 a. Triangle Expressway, including segments also known as N.C. 540,
 17 Triangle Parkway, and the Western Wake Freeway in Wake and
 18 Durham Counties. The described segments constitute three projects.

19 b. Repealed by Session Laws 2013-183, s. 5.1, effective July 1, 2013.

20 c. Monroe Connector/Bypass.

21 d., e. Repealed by Session Laws 2013-183, s. 5.1, effective July 1, 2013.

22 Any other project proposed by the Authority in addition to the projects listed
 23 in this subdivision requires (i) authorization pursuant to a referendum under
 24 G.S. 136-11.1 and (ii) prior consultation with the Joint Legislative
 25 Commission on Governmental Operations pursuant to G.S. 120-76.1 no less
 26 than 180 days prior to initiating the process required by Article 7 of Chapter
 27 159 of the General Statutes.

28 With the exception of the four projects set forth in sub-subdivisions a. and c.
 29 of this subdivision, the Turnpike projects selected for construction by the
 30 Turnpike Authority, prior to the letting of a contract for the project, shall
 31 meet the following conditions: (i) two of the projects must be ranked in the
 32 top 35 based on total score on the Department-produced list entitled
 33 "Mobility Fund Project Scores" dated June 6, 2012, and, in addition, may be
 34 subject to G.S. 136-18(39a); (ii) of the projects not ranked as provided in (i),
 35 one may be subject to G.S. 136-18(39a); (iii) the projects shall be included
 36 in any applicable locally adopted comprehensive transportation plans; (iv)
 37 the projects shall be shown in the current State Transportation Improvement
 38 Program; and (v) toll projects must be approved by all affected Metropolitan
 39 Planning Organizations and Rural Transportation Planning Organizations for
 40 tolling.

41 f. Repealed by Session Laws 2008-225, s. 4, effective August 17, 2008.

42 Any other project proposed by the Authority in addition to the projects listed
 43 in this subdivision must be approved by the General Assembly prior to
 44 construction.

45 A Turnpike Project selected for construction by the Turnpike Authority shall
 46 be included in any applicable locally adopted comprehensive transportation
 47 plans and shall be shown in the current State Transportation Improvement
 48 Plan prior to the letting of a contract for the Turnpike Project.

49 ...

50 (5) To fix, revise, charge, retain, enforce, and collect tolls and fees for the use of
 51 the Turnpike Projects. ~~Prior to the effective date of any toll or fee for use of~~

1 a Turnpike Facility, the Authority shall submit a description of the proposed
2 toll or fee to the Board of Transportation, the Joint Legislative
3 Transportation Oversight Committee and the Joint Legislative Commission
4 on Governmental Operations for review. Projects, provided that the Authority
5 shall not establish or increase any tolls, user fees, or any other direct charge
6 to users of a Turnpike Project on or after August 1, 2015, except (i) as
7 necessary to satisfy construction bonds and other contractual financial
8 obligations entered into prior to August 1, 2015, or (ii) unless authorized
9 pursuant to a referendum under G.S. 136-11.1.

10"

11 **SECTION 5.(d)** G.S. 136-89.198 reads as rewritten:

12 **"§ 136-89.198. Authority to toll existing interstate highways.**

13 (a) General. – Notwithstanding any other provision of this Article, the Authority may
14 collect tolls established prior to August 1, 2015, on any existing interstate highway for which
15 the United States Department of Transportation has granted permission by permit, or any other
16 lawful means, to do so. The revenue generated from the collected tolls shall be used by the
17 Authority to repair and maintain the interstate on which the tolls were collected. These
18 revenues shall not be used to repair, maintain, or upgrade any State primary or secondary road
19 adjacent to or connected with the interstate highways.

20"

21 **SECTION 5.(e)** G.S. 136-89.199 reads as rewritten:

22 **"§ 136-89.199. Designation of high-occupancy toll and managed lanes.**

23 (a) Authority. – Notwithstanding any other provision of this Article, the Authority may
24 designate one or more lanes of any highway, or portion thereof, within the State, including
25 lanes that may previously have been designated as HOV lanes under G.S. 20-146.2, as
26 high-occupancy toll (HOT) or other type of managed lanes; provided, however, that such
27 designation shall not reduce the number of existing non-toll general purpose lanes. In making
28 such designations, the Authority shall specify the high-occupancy requirement or other
29 conditions for use of such lanes, which may include restricting vehicle types, access controls,
30 or the payment of tolls for vehicles that do not meet the high-occupancy requirements or
31 conditions for use.

32 (b) Limitation. – The Authority may not designate any new high-occupancy toll lanes
33 or increase tolls on existing high-occupancy toll lanes after August 1, 2015, unless authorized
34 pursuant to a referendum under G.S. 136-11.1."

35 **SECTION 5.(f)** G.S. 136-89.211 reads as rewritten:

36 **"§ 136-89.211. Tolls for use of Turnpike project.**

37 In exercising its authority under G.S. 136-89.183 to set tolls for the use of a Turnpike
38 project, the Authority may not do any of the following:

- 39 (1) Set open road tolls that vary for the same class of motor vehicle depending
40 on the method by which the Authority identifies a motor vehicle that drives
41 on the Turnpike project. This does not preclude the Authority from allowing
42 a discount for a motor vehicle equipped with an electronic toll collection
43 transponder or a motor vehicle that has prepaid its toll.
- 44 (2) Exempt a motor vehicle that is not a law enforcement vehicle, an emergency
45 fire or rescue vehicle, or an emergency medical services vehicle from the
46 requirement of paying a toll for the use of a Turnpike project.
- 47 (3) Establish a new toll or increase an existing toll after August 1, 2015, except
48 (i) as necessary to satisfy construction bonds and other contractual financial
49 obligations entered into prior to August 1, 2015, or (ii) unless authorized
50 pursuant to a referendum under G.S. 136-11.1."

51 **SECTION 5.(g)** G.S. 136-89.212 reads as rewritten:

1 "§ 136-89.212. Payment of toll required for use of tolled Turnpike ~~project~~projects.

2 (a) A motor vehicle that is driven on a tolled Turnpike project is subject to a toll
3 imposed by the Authority for the use of the project. If the toll is an open road toll, the person
4 who is the registered owner of the motor vehicle is liable for payment of the toll unless the
5 registered owner establishes that the motor vehicle was in the care, custody, and control of
6 another person when it was driven on the Turnpike project.

7"

8 **SECTION 5.(h)** Nothing in this section shall be construed as altering or
9 superseding the time frame in which projects programmed in the five-year State Transportation
10 Improvement Program (STIP) are to be completed. All projects programmed in the five-year
11 STIP shall be completed on schedule.

12 **SECTION 5.(i)** This section becomes effective August 1, 2015.

13
14 **PART VI. HEADINGS/EFFECTIVE DATE**

15 **SECTION 6.** The headings to the parts of this act are a convenience to the reader
16 and are for reference only. The headings do not expand, limit, or define the text of this act.

17 **SECTION 7.** Except as otherwise provided in this act, this act is effective when it
18 becomes law.