

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

FILED SENATE  
Mar 26, 2015  
S.B. 639  
PRINCIPAL CLERK

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SENATE DRS45280-MLxfa-166 (03/13)

Short Title: Transportation Funding Bill.

(Public)

Sponsors: Senator Tarte (Primary Sponsor).

Referred to:

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

8 The General Assembly of North Carolina enacts:

9  
10 **PART I. MOTOR FUELS TAX RATE**

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

12 "**§ 105-449.80. Tax rate.**

13 (a) ~~Rate.~~—The motor fuel excise tax rate is a flat rate of seventeen and one half cents  
14 ~~(17 1/2¢) a gallon plus a variable wholesale component. The variable wholesale component is~~  
15 ~~either three and one half cents (3 1/2¢) a gallon or seven percent (7%) of the average wholesale~~  
16 ~~price of motor fuel for the applicable base period, whichever is greater, as follows:~~

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

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

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

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

30 ~~The Secretary must compute the average sales price of finished motor gasoline for the base~~  
31 ~~period, compute the average sales price for No. 2 diesel fuel for the base period, and then~~  
32 ~~compute a weighted average of the results of the first two computations based on the proportion~~  
33 ~~of tax collected on each under this Article for the base period. The Secretary must then convert~~  
34 ~~the weighted average price to a cents per gallon rate and round the rate to the nearest one tenth~~  
35 ~~of a cent (1/10¢). If the converted cents per gallon rate is exactly between two tenths of a cent~~  
36 ~~(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.