

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

FILED SENATE
Mar 21, 2013
S.B. 394
PRINCIPAL CLERK

S

D

SENATE DRS35181-RBx-20 (02/20)

Short Title: Lower Tax Rates for a Stronger NC Economy. (Public)

Sponsors: Senators Clodfelter (Primary Sponsor); Hartsell, Jenkins, and Meredith.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ADOPT A BIPARTISAN TAX REFORM PLAN TO PROMOTE ECONOMIC
3 DEVELOPMENT IN NORTH CAROLINA BY ESTABLISHING A SOUND STATE
4 TAX STRUCTURE THAT REVISES THE EXISTING STRUCTURE ON A
5 REVENUE-NEUTRAL BASIS, LOWERS ALL MAJOR TAX RATES, TAXES ALL
6 INCOME AT THE SAME RATE, AND MAKES THE STRUCTURE SIMPLER,
7 FAIRER, AND CONSISTENT WITH THE MODERN ECONOMY, AS
8 RECOMMENDED BY PAST TAX STUDIES.

9 The General Assembly of North Carolina enacts:

10
11 **PART I. GENERAL FINDINGS AND PURPOSE**

12 **SECTION 1.(a)** The General Assembly of North Carolina finds the following:

- 13 (1) North Carolina's current tax structure has not been comprehensively revised
14 since the Great Depression. The tax structure adopted then, while amended
15 extensively over the years in a piecemeal fashion, no longer reflects North
16 Carolina's 21st Century economy.
17 (2) Over the years, the multiplication of credits, allowances, special rates, and
18 exemptions has progressively narrowed the base of the State's individual and
19 corporate income taxes, with the result that the rates for those income taxes
20 are now among the highest in our region and among our peer states.
21 (3) North Carolina's current tax structure undermines the State's competitive
22 position and acts as a deterrent to new business investment and the creation
23 of new jobs.
24 (4) The State's reliance on temporary and expedient tax changes to meet budget
25 shortfalls has created a tax structure that is unpredictable for taxpayers and a
26 revenue stream that is unstable for the State.

27 **SECTION 1.(b)** It is the intent of this legislation to promote economic
28 development by establishing broader tax bases and lowering tax rates in a comprehensive
29 manner, as recommended by numerous study committees charged with developing a 21st
30 Century tax policy for the State. Adoption of a modern tax structure will accomplish the
31 following objectives:

- 32 (1) Make North Carolina's tax system more competitive relative to our peer
33 states.
34 (2) Conform North Carolina's tax system to the current economy and not that of
35 the 1933 economy.



- (3) Stabilize North Carolina's tax base and provide a reliable revenue stream for the future.
- (4) Make North Carolina's tax system fairer so that individual taxpayers and business taxpayers who are in very similar circumstances to one another are treated in roughly the same way by the tax system.
- (5) Balance North Carolina's tax revenues among the different types of taxes and the different groups of taxpayers on a revenue-neutral basis. The consensus forecasted amounts for fiscal year 2014-2015 are used to establish the revenue-neutrality of the tax changes in this legislation.

SECTION 1.(c) This section is effective when it becomes law.

PART II. REDUCE INDIVIDUAL INCOME TAX RATES AND BROADEN TAX BASE

SECTION 2.(a) The following statutes are recodified as indicated:

<u>Current Statute</u>	<u>Recodified Statute</u>
G.S. 105-133	G.S. 105-153.1
G.S. 105-134	G.S. 105-153.2
G.S. 105-134.1	G.S. 105-153.3
G.S. 105-134.5	G.S. 105-153.4
G.S. 105-151	G.S. 105-153.9
G.S. 105-152	G.S. 105-153.8

SECTION 2.(b) The following statutes are repealed:

- G.S. 105-134.2
- G.S. 105-134.3
- G.S. 105-134.6
- G.S. 105-134.7
- G.S. 105-134.8
- G.S. 105-151.11
- G.S. 105-151.18
- G.S. 105-151.20
- G.S. 105-151.21
- G.S. 105-151.24
- G.S. 105-151.26
- G.S. 105-151.33

SECTION 2.(c) G.S. 105-134.1, recodified by this act as G.S. 105-153.3, reads as rewritten:

"§ 105-153.3. Definitions.

The following definitions apply in this Part:

- (1) Adjusted gross income. – Defined in section 62 of the Code.
- (1a) Code. – Defined in G.S. 105-228.90.
- (2) Department. – The Department of Revenue.
- (3) ~~Educational institution. — An educational institution that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on.~~
- (4) Fiscal year. – Defined in section 441(e) of the Code.
- (5) Gross income. – Defined in section 61 of the Code.
- (6) Head of household. – Defined in section 2(b) of the Code.
- (7) Individual. – A human being.
- (7a) Limited liability company. – Either a domestic limited liability company organized under Chapter 57C of the General Statutes or a foreign limited

1 liability company authorized by that Chapter to transact business in this
 2 State that is classified for federal income tax purposes as a partnership. As
 3 applied to a limited liability company that is a partnership under this Part,
 4 the term "partner" means a member of the limited liability company.

5 (7b) Repealed by Session Laws 1998-98, s. 9, effective August 14, 1998.

6 (8) Married individual. – An individual who is married and is considered
 7 married as provided in section 7703 of the Code.

8 (9) Nonresident individual. – An individual who is not a resident of this State.

9 (10) North Carolina taxable income. – Defined in ~~G.S. 105-134.5~~. G.S. 105-153.4.

10 (10a) Partnership. – A domestic partnership, a foreign partnership, or a limited
 11 liability company.

12 (11) Person. – Defined in G.S. 105-228.90.

13 (12) Resident. – An individual who is domiciled in this State at any time during
 14 the taxable year or who resides in this State during the taxable year for other
 15 than a temporary or transitory purpose. In the absence of convincing proof to
 16 the contrary, an individual who is present within the State for more than 183
 17 days during the taxable year is presumed to be a resident, but the absence of
 18 an individual from the state for more than 183 days raises no presumption
 19 that the individual is not a resident. A resident who removes from the State
 20 during a taxable year is considered a resident until he has both established a
 21 definite domicile elsewhere and abandoned any domicile in this State. The
 22 fact of marriage does not raise any presumption as to domicile or residence.

23 ~~(13) Retirement benefits. – Amounts paid to a former employee or the beneficiary
 24 of a former employee under a written retirement plan established by the
 25 employer to provide payments to an employee or the beneficiary of an
 26 employee after the end of the employee's employment with the employer
 27 where the right to receive the payments is based upon the employment
 28 relationship. With respect to a self-employed individual or the beneficiary of
 29 a self-employed individual, the term means amounts paid to the individual or
 30 beneficiary of the individual under a written retirement plan established by
 31 the individual to provide payments to the individual or the beneficiary of the
 32 individual after the end of the self-employment. In addition, the term
 33 includes amounts received from an individual retirement account described
 34 in section 408 of the Code or from an individual retirement annuity
 35 described in section 408 of the Code. For the purpose of this subdivision, the
 36 term "employee" includes a volunteer worker.~~

37 (14) S Corporation. – Defined in G.S. 105-131(b).

38 (15) Secretary. – The Secretary of Revenue.

39 (16) Repealed by Session Laws 2011-145, s. 31A.1(a), effective for taxable years
 40 beginning on or after January 1, 2012.

41 (17) Taxable year. – Defined in section 441(b) of the Code.

42 (18) Taxpayer. – An individual subject to the tax imposed by this Part.

43 (19) This State. – The State of North Carolina."

44 **SECTION 2.(d)** G.S. 105-134.5, recodified by this act as G.S. 105-153.4, reads as
 45 rewritten:

46 "**§ 105-153.4. North Carolina taxable income defined.**

47 (a) Residents. – For an individual who is a resident of this State, the term "North
 48 Carolina taxable income" means the taxpayer's adjusted gross income as modified in
 49 ~~G.S. 105-134.6~~. G.S. 105-153.5.

50 (b) Nonresidents. – For a nonresident individual, the term "North Carolina taxable
 51 income" means the taxpayer's adjusted gross income as modified in ~~G.S. 105-134.6,~~

1 G.S. 105-153.5, multiplied by a fraction the denominator of which is the taxpayer's gross
2 income as modified in ~~G.S. 105-134.6~~, G.S. 105-153.5, and the numerator of which is the
3 amount of that gross income, as modified, that is derived from North Carolina sources and is
4 attributable to the ownership of any interest in real or tangible personal property in this State, is
5 derived from a business, trade, profession, or occupation carried on in this State, or is derived
6 from gambling activities in this State.

7 (c) Part-year Residents. – If an individual was a resident of this State for only part of
8 the taxable year, having moved into or removed from the State during the year, the term "North
9 Carolina taxable income" has the same meaning as in subsection (b) of this section except that
10 the numerator includes adjusted gross income, as modified under ~~G.S. 105-134.6~~,
11 G.S. 105-153.5, derived from all sources during the period the individual was a resident.

12 (d) S Corporations and Partnerships. – In order to calculate the numerator of the
13 fraction provided in subsection (b) of this section, the amount of a shareholder's pro rata share
14 of S Corporation income that is includable in the numerator is the shareholder's pro rata share
15 of the S Corporation's income attributable to the State, as defined in G.S. 105-131(b)(4). In
16 order to calculate the numerator of the fraction provided in subsection (b) of this section for a
17 member of a partnership or other unincorporated business that has one or more nonresident
18 members and operates in one or more other states, the amount of the member's distributive
19 share of income of the business that is includable in the numerator is determined by multiplying
20 the total net income of the business by the ratio ascertained under the provisions of
21 G.S. 105-130.4. As used in this subsection, total net income means the entire gross income of
22 the business less all expenses, taxes, interest, and other deductions allowable under the Code
23 that were incurred in the operation of the business.

24 (e) Tax Year. – A taxpayer must compute North Carolina taxable income on the basis
25 of the taxable year used in computing the taxpayer's income tax liability under the Code."

26 **SECTION 2.(e)** Part 2 of Article 4 of Chapter 105 of the General Statutes is
27 amended by adding the following new sections to read:

28 "**§ 105-153.5. Modifications to adjusted gross income.**

29 (a) Deductions. – In calculating North Carolina taxable income, a taxpayer must deduct
30 from the taxpayer's adjusted gross income any of the following items that are included in the
31 taxpayer's adjusted gross income:

32 (1) Interest upon the obligations of any of the following:

33 a. The United States or its possessions.

34 b. This State, a political subdivision of this State, or a commission, an
35 authority, or another agency of this State or of a political subdivision
36 of this State.

37 (2) Gain from the disposition of obligations issued before July 1, 1995, to the
38 extent the gain is exempt from tax under the laws of this State.

39 (3) Amounts received from retirement annuities or pensions paid under the
40 provisions of the Railroad Retirement Act of 1937.

41 (4) Refunds of State, local, and foreign income taxes included in the taxpayer's
42 gross income.

43 (5) The amount received during the taxable year from one or more State, local,
44 or federal government retirement plans to the extent the amount is exempt
45 from tax under this Part pursuant to a court order in settlement of any of the
46 following cases:

47 a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS
48 8230.

49 b. Emory v. State, 98 CVS 0738.

50 c. Patton v. State, 95 CVS 04346.

51 (6) Income that meets both of the following requirements:

- 1 a. Is earned or received by an enrolled member of a federally
2 recognized Indian tribe.
- 3 b. Is derived from activities on a federally recognized Indian
4 reservation while the member resides on the reservation. Income
5 from intangibles having a situs on the reservation and retirement
6 income associated with activities on the reservation are considered
7 income derived from activities on the reservation.
- 8 (7) The amount by which the basis of property under this Article exceeds the
9 basis of the property under the Code, in the year the taxpayer disposes of the
10 property.
- 11 (8) The amount paid to the taxpayer by the State under G.S. 148-84 as
12 compensation for pecuniary loss suffered by reason of erroneous conviction
13 and imprisonment.
- 14 (9) The amount allowed as a deduction under G.S. 105-153.6 as a result of an
15 add-back for federal accelerated depreciation and expensing.

16 (b) Additions. – In calculating North Carolina taxable income, a taxpayer must add to
17 the taxpayer's adjusted gross income any of the following items that are not included in the
18 taxpayer's adjusted gross income:

- 19 (1) Interest upon the obligations of states other than this State, political
20 subdivisions of those states, and agencies of those states and their political
21 subdivisions.
- 22 (2) The amount by which a shareholder's share of S Corporation income is
23 reduced under section 1366(f)(2) of the Code for the taxable year by the
24 amount of built-in gains tax imposed on the S Corporation under section
25 1374 of the Code.
- 26 (3) The amount by which the basis of property under the Code exceeds the basis
27 of the property under this Article, in the year the taxpayer disposes of the
28 property.
- 29 (4) The amount excluded from gross income under section 199 of the Code.
- 30 (5) The amount required to be added under G.S. 105-153.6 when the State
31 decouples from federal accelerated depreciation and expensing.

32 "**§ 105-153.6. Adjustments when State decouples from federal accelerated depreciation**
33 **and expensing.**

34 (a) Special Accelerated Depreciation. – A taxpayer who places property in service
35 during a taxable year listed in the table below and who takes a special accelerated depreciation
36 deduction for that property under section 168(k) or 168(n) of the Code must add to the
37 taxpayer's federal taxable income or adjusted gross income, as appropriate, eighty-five percent
38 (85%) of the amount taken for that year under those Code provisions. For taxable years before
39 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable
40 year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

41 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
42 five taxable years following the year the taxpayer is required to include the add-back in income.
43 The table below indicates the applicable five-year period.

<u>Taxable Year of</u>	<u>Five Taxable Years of</u>
<u>85% Add-Back</u>	<u>20% Deduction</u>
<u>2010</u>	<u>2011 through 2015</u>
<u>2011</u>	<u>2012 through 2016</u>
<u>2012</u>	<u>2013 through 2017</u>
<u>2013</u>	<u>2014 through 2018</u>

50 (b) 2009 Depreciation Exception. – A taxpayer who placed property in service during
51 the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year

1 reflected a special accelerated depreciation deduction allowed for the property under section
 2 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated
 3 depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is
 4 allowed to deduct this add-back under subsection (a) of this section as if it were for property
 5 placed in service in 2010.

6 (c) Section 179 Expense. – For purposes of this subdivision, the definition of section
 7 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A
 8 taxpayer who places section 179 property in service during a taxable year listed in the table
 9 below must add to the taxpayer's federal taxable income or adjusted gross income as
 10 appropriate, eighty-five percent (85%) of the amount by which the taxpayer's expense
 11 deduction under section 179 of the Code exceeds the amount that would have been allowed for
 12 that taxable year under section 179 of the Code as of May 1, 2010. For taxable years before
 13 2013, the taxpayer must add the amount to the taxpayer's federal taxable income. For taxable
 14 year 2013 and after, the taxpayer must add the amount to the taxpayer's adjusted gross income.

15 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
 16 five taxable years following the year the taxpayer is required to include the add-back in income.
 17 The table in subsection (a) of this section indicates the applicable five-year period.

18 (d) Asset Basis. – The adjustments made in this section do not result in a difference in
 19 basis of the affected assets for State and federal income tax purposes.

20 **"§ 105-153.7. Individual income tax imposed.**

21 (a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income
 22 of an individual. The tax is six percent (6%) of the taxpayer's North Carolina taxable income
 23 that exceeds the zero tax bracket for the taxpayer's filing status. For purposes of Section 2 of
 24 Article V of the North Carolina Constitution, the zero tax bracket provides an exemption so that
 25 only net incomes are taxed.

26 The zero tax brackets are as follows:

- 27 (1) For married individuals who file a joint return under G.S. 105-153.8 and for
 28 surviving spouses, as defined in section 2(a) of the Code:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>0</u>	<u>\$11,000</u>	<u>0.0%</u>

- 31 (2) For heads of households, as defined in section 2(b) of the Code:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>0</u>	<u>\$8,800</u>	<u>0.0%</u>

- 34 (3) For unmarried individuals other than surviving spouses and heads of
 35 households:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>0</u>	<u>\$5,500</u>	<u>0.0%</u>

- 38 (4) For married individuals who do not file a joint return under G.S. 105-153.7:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>0</u>	<u>\$5,500</u>	<u>0.0%</u>

41 (b) Indexed Brackets. – For taxable years beginning on or after January 1, 2016, the
 42 "Up To" zero tax bracket maximums that are set out in subsection (a) of this section are
 43 indexed for the taxable year in accordance with the cost-of-living adjustment used under
 44 section 1 of the Code to index the federal rate brackets for that taxable year. The indexed zero
 45 tax brackets determined under this subsection apply in lieu of the zero tax brackets set out in
 46 subsection (a) of this section. The Secretary must publish the zero tax brackets set under this
 47 subsection.

48 (c) Withholding Tables. – The Secretary may provide tables that compute the amount
 49 of tax due for a taxable year under this Part. The tables do not apply to an individual who files a
 50 return under section 443(a)(1) of the Code for a period of less than 12 months due to a change
 51 in the individual's annual accounting period, or to an estate or trust."

1 **SECTION 2.(f)** G.S. 105-152 and G.S. 105-151, recodified by this act as
2 G.S. 105-153.8 and G.S. 105-153.9, read as rewritten:

3 **"§ 105-153.8. Income tax returns.**

4 (a) Who Must File. – The following individuals ~~shall~~must file with the Secretary an
5 income tax return under affirmation:

6 (1) Every resident ~~required to file an income tax return for the taxable year~~
7 ~~under the Code and every whose North Carolina taxable income exceeds the~~
8 zero tax bracket amount under G.S. 105-153.7.

9 (1a) Every nonresident individual who (i) ~~derived~~meets all of the following
10 requirements:

11 a. Receives during the taxable year gross income that is derived from
12 North Carolina sources ~~during the taxable year~~and is attributable to
13 the ownership of any interest in real or tangible personal property in
14 this State ~~or~~State, is derived from a business, trade, profession, or
15 occupation carried on in this State ~~and (ii) is~~State, or is derived from
16 gambling activities in this State.

17 b. Is required to file an income tax return for the taxable year under the
18 Code.

19 (2) Repealed by Session Laws 1991 (Reg. Sess., 1992), c. 930, s. 1.

20 (3) Any individual whom the Secretary believes to be liable for a tax under this
21 Part, when so notified by the Secretary and requested to file a return.

22 (b) Taxpayer Deceased or Unable to Make Return. – If ~~the a~~ taxpayer is unable to file
23 ~~the an~~ income tax return, ~~the return shall be filed by~~ a duly authorized agent of the taxpayer or
24 ~~by a~~ guardian or other person charged with the care of the person or property of the
25 ~~taxpayer.~~taxpayer must file the return. If an individual who was required to file an income tax
26 return for the taxable year while living has died before making the return, the administrator or
27 executor of the estate ~~shall~~must file the return in the decedent's name and behalf, and the tax
28 ~~shall be levied upon and collected from~~is payable by the estate.

29 (c) Information Required With Return. – The income tax return ~~shall~~must show the
30 ~~taxable income and adjustments~~adjusted gross income and modifications required by this Part
31 Part, and any other information the Secretary requires. The Secretary may require some or all
32 individuals required to file an income tax return to attach to the return a copy of their federal
33 income tax return for the taxable year. The Secretary may require a taxpayer to provide the
34 Department with copies of any other return the taxpayer has filed with the Internal Revenue
35 Service and to verify any information in the return.

36 (d) Secretary May Require Additional Information. – When the Secretary has reason to
37 believe that any taxpayer conducts a trade or business in a way that directly or indirectly
38 distorts the taxpayer's ~~taxable income~~adjusted gross income or North Carolina taxable income,
39 the Secretary may require any additional information for the proper computation of the
40 taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable income. In
41 computing the taxpayer's ~~taxable income~~adjusted gross income and North Carolina taxable
42 income, the Secretary ~~shall~~must consider the fair profit that would normally arise from the
43 conduct of the trade or business.

44 (e) Joint Returns. – A husband and wife whose ~~federal taxable income~~adjusted gross
45 income is determined on a joint federal return ~~shall~~must file a single income tax return jointly
46 if each spouse either is a resident of this State or has North Carolina taxable income and may
47 file a single income tax return jointly if one spouse is not a resident and has no North Carolina
48 taxable income. Except as otherwise provided in this Part, a wife and husband filing jointly are
49 treated as one taxpayer for the purpose of determining the tax imposed by this Part. A husband
50 and wife filing jointly are jointly and severally liable for the tax imposed by this Part reduced
51 by the sum of all credits allowable including tax payments made by or on behalf of the husband

1 and wife. However, if a spouse qualifies for relief of liability for federal tax attributable to a
2 substantial understatement by the other spouse pursuant to section 6015 of the Code, that
3 spouse is not liable for the corresponding tax imposed by this Part attributable to the same
4 substantial understatement by the other spouse. A wife and husband filing jointly have
5 expressly agreed that if the amount of the payments made by them with respect to the taxes for
6 which they are liable, including withheld and estimated taxes, exceeds the total of the taxes
7 due, refund of the excess may be made payable to both spouses jointly or, if either is deceased,
8 to the survivor alone.

9 (f) Repealed by Session Laws 1991.

10 **"§ 105-153.9. Tax credits for income taxes paid to other states by individuals.**

11 (a) An individual who is a resident of this State is allowed a credit against the taxes
12 imposed by this Part for income taxes imposed by and paid to another state or country on
13 income taxed under this Part, subject to the following conditions:

14 (1) The credit is allowed only for taxes paid to another state or country on
15 income that is derived from sources within that state or country ~~that and~~ is
16 taxed under its laws irrespective of the residence or domicile of the recipient,
17 except that whenever a taxpayer who is ~~deemed to be considered~~ a resident
18 of this State under ~~the provisions of this Part~~ is ~~deemed also to be considered~~
19 a resident of another state or country under the laws of that state or country,
20 the Secretary may allow a credit against the taxes imposed by this Part for
21 taxes imposed by and paid to the other state or country on income taxed
22 under this Part.

23 (2) The fraction of the adjusted gross income, as ~~calculated under the Code and~~
24 ~~adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7, modified in~~
25 G.S. 105-153.5, that is subject to income tax in another state or country shall
26 be ascertained, and the North Carolina net income tax before credit under
27 this section shall be multiplied by that fraction. The credit allowed is either
28 the product thus calculated or the income tax actually paid the other state or
29 country, whichever is smaller.

30 (3) Receipts showing the payment of income taxes to another state or country
31 and a true copy of a return or returns upon the basis of which the taxes are
32 assessed shall be filed with the Secretary when the credit is claimed. If credit
33 is claimed on account of a deficiency assessment, a true copy of the notice
34 assessing or proposing to assess the deficiency, as well as a receipt showing
35 the payment of the deficiency, shall be filed.

36 (b) If any taxes paid to another state or country for which a taxpayer has been allowed a
37 credit under this section are at any time credited or refunded to the taxpayer, a tax equal to that
38 portion of the credit allowed for the taxes so credited or refunded is due and payable from the
39 taxpayer and is subject to the penalties and interest provided in Subchapter I of this Chapter."

40 **SECTION 2.(g)** Part 2 of Article 4 of Chapter 105 of the General Statutes is
41 amended by adding a new section to read:

42 **"§ 105-153.10. Other tax credits.**

43 (a) Personal Credit. – A taxpayer is allowed a credit against the tax imposed by this Part
44 for the taxable year equal to the taxpayer's adjusted gross income less the zero tax bracket
45 amount set in G.S. 105-153.7 for the taxpayer's filing status, multiplied by six-tenths of one
46 percent (0.6%). The tax is subject to a minimum and a maximum amount. The minimum credit
47 is two hundred dollars (\$200.00) and the maximum credit is eight hundred dollars (\$800.00).

48 (b) Children. – A taxpayer who is allowed a federal child tax credit under section 24 of
49 the Code for the taxable year is allowed a credit against the tax imposed by this Part for the
50 taxable year for each dependent child for whom the taxpayer is allowed the federal credit. The

1 amount of credit allowed is equal to the amount listed in the table below based on the
 2 taxpayer's adjusted gross income.

<u>Filing Status</u>	<u>AGI</u>	<u>Credit Amount</u>
<u>Married, filing jointly</u>	<u>Less than \$110,000</u>	<u>\$450.00</u>
	<u>\$110,000-\$200,000</u>	<u>\$200.00</u>
	<u>Greater than \$200,000</u>	<u>0</u>
<u>Head of Household</u>	<u>Less than \$88,000</u>	<u>\$450.00</u>
	<u>\$88,000-\$160,000</u>	<u>\$200.00</u>
	<u>Greater than \$160,000</u>	<u>0</u>
<u>Single</u>	<u>Less than \$55,000</u>	<u>\$450.00</u>
	<u>\$55,000-\$100,000</u>	<u>\$200.00</u>
	<u>Greater than \$100,000</u>	<u>0</u>
<u>Married, filing separately</u>	<u>Less than \$55,000</u>	<u>\$450.00</u>
	<u>\$55,000-\$100,000</u>	<u>\$200.00</u>
	<u>Greater than \$100,000</u>	<u>0</u>

19 (c) Charitable Contributions. – A taxpayer who makes charitable contributions during
 20 the taxable year that are deductible under section 170 of the Code is allowed a credit against the
 21 tax imposed by this Part for the taxable year. The credit is six percent (6.0%) of the amount
 22 deductible under section 170 of the Code, not to exceed six hundred dollars (\$600.00).

23 (d) Limitations. – A credit allowed under this section may not exceed the amount of tax
 24 imposed by this Part for the taxable year reduced by the sum of all credits allowed, except
 25 payments of tax made by or on behalf of the taxpayer. A nonresident or part-year resident who
 26 claims a credit allowed by this section must reduce the amount of the credit by multiplying it
 27 by the fraction calculated under G.S. 105-153.4(b) or (c), as appropriate."

28 **SECTION 2.(h)** Notwithstanding the provisions of G.S. 105-163.15, no addition to
 29 tax may be made under that statute for a taxable year beginning on or after January 1, 2015, and
 30 before January 1, 2016, with respect to any underpayment of individual income tax to the
 31 extent the underpayment was created or increased by this section.

32 **SECTION 2.(i)** This section becomes effective for taxable years beginning on or
 33 after January 1, 2015.

34
 35 **PART III. REDUCE CORPORATE INCOME TAX RATE AND BROADEN THE**
 36 **TAX BASE**

37 **SECTION 3.(a)** G.S. 105-130.3 reads as rewritten:

38 "**§ 105-130.3. Corporations.**

39 A tax is imposed on the State net income of every C Corporation doing business in this
 40 State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage
 41 of the taxpayer's State net ~~income computed as follows:~~ income. The percentage rate is the rate
 42 set in G.S. 105-153.7 for the individual income tax.

Income Years Beginning	Tax
In 1997	7.5%
In 1998	7.25%
In 1999	7%
After 1999	6.9%."

46
 47
 48 **SECTION 3.(b)** G.S. 105-130.5(a) is amended by adding the following new
 49 subdivisions to read:

50 "(a) The following additions to federal taxable income shall be made in determining
 51 State net income:

1 ...
 2 (2a) That portion of a financial institution's interest expense that is allocable to
 3 interest income exempt from taxation under this Part. The allocable portion
 4 of the interest expense is the portion for which a deduction would be
 5 disallowed pursuant to section 265(b) of the Code if the interest were earned
 6 on a tax-exempt obligation as defined in section 265(b) of the Code.

7 ...
 8 (24) The amount required to be added under G.S. 105-130.5B when the State
 9 decouples from federal accelerated depreciation and expensing."

10 **SECTION 3.(c)** G.S. 105-130.5(b) is amended by adding a new subdivision to
 11 read:

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

14 ...
 15 (27) The amount allowed as a deduction under G.S. 105-130.5B as a result of an
 16 add-back for federal accelerated depreciation and expensing."

17 **SECTION 3.(d)** G.S. 105-130.5(a)(15), (15a), (15b), and (23) are repealed.

18 **SECTION 3.(e)** G.S. 105-130.5(b)(1a)b., (7), (19), (21), (21a), (21b), (22), (24),
 19 and (26) are repealed.

20 **SECTION 3.(f)** Part 1 of Article 4 of Chapter 105 of the General Statutes is
 21 amended by adding a new section to read:

22 **"§ 105-130.5B. Adjustments when State decouples from federal accelerated depreciation**
 23 **and expensing.**

24 (a) Special Accelerated Depreciation. – A taxpayer that places property in service
 25 during a taxable year listed in the table below and who takes a special accelerated depreciation
 26 deduction for that property under section 168(k) or 168(n) of the Code must add to the
 27 taxpayer's federal taxable income eighty-five percent (85%) of the amount taken for that year
 28 under those Code provisions.

29 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
 30 five taxable years following the year the taxpayer is required to include the add-back in income.
 31 The table below indicates the applicable five-year period.

<u>Taxable Year of</u> <u>85% Add-Back</u>	<u>Five Taxable Years of</u> <u>20% Deduction</u>
<u>2010</u>	<u>2011 through 2015</u>
<u>2011</u>	<u>2012 through 2016</u>
<u>2012</u>	<u>2013 through 2017</u>
<u>2013</u>	<u>2014 through 2018</u>

38 (b) 2009 Depreciation Exception. – A taxpayer that placed property in service during
 39 the 2009 taxable year and whose North Carolina taxable income for the 2009 taxable year
 40 reflected a special accelerated depreciation deduction allowed for the property under section
 41 168(k) of the Code must add eighty-five percent (85%) of the amount of the special accelerated
 42 depreciation deduction to its federal taxable income for the 2010 taxable year. A taxpayer is
 43 allowed to deduct this add-back under subsection (a) of this section as if it were for property
 44 placed in service in 2010.

45 (c) Section 179 Expense. – For purposes of this subdivision, the definition of section
 46 179 property has the same meaning as under section 179 of the Code as of January 1, 2011. A
 47 taxpayer that places section 179 property in service during a taxable year listed in the table
 48 below must add to the taxpayer's federal taxable income eighty-five percent (85%) of the
 49 amount by which the taxpayer's expense deduction under section 179 of the Code exceeds the
 50 amount that would have been allowed for that taxable year under section 179 of the Code as of
 51 May 1, 2010.

1 A taxpayer is allowed to deduct twenty percent (20%) of the add-back in each of the first
 2 five taxable years following the year the taxpayer is required to include the add-back in income.
 3 The table in subsection (a) of this section indicates the applicable five-year period.

4 (d) Asset Basis. – The adjustments made in this section do not result in a difference in
 5 basis of the affected assets for State and federal income tax purposes."

6 **SECTION 3.(g)** G.S. 105-130.7A reads as rewritten:

7 "**§ 105-130.7A. Royalty income and interest expense reporting ~~option~~-options.**

8 (a) Purpose. – Royalty payments received for the use of intangible property in this State
 9 are income derived from doing business in this State. This section provides taxpayers with an
 10 option concerning the method by which ~~these~~ royalties and interest expense can be reported for
 11 taxation when the recipient and the payer are related members. As provided in this section,
 12 ~~these~~ royalty payments and interest expenses can be either (i) deducted by the payer and
 13 included in the income of the recipient, or (ii) added back to the income of the payer and
 14 excluded from the income of the recipient.

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

16 ...

17 **(1b) Interest expense. – An amount directly or indirectly allowed as a deduction**
 18 **under section 163 of the Code.**

19 ...

20 (c) Election. – For the purpose of computing its State net income, a taxpayer must add
 21 royalty payments and interest expenses made to, or in connection with transactions with, a
 22 related member during the taxable year. This addition is not required for an amount of royalty
 23 payments or interest expenses that meets any of the following conditions:

24 (1) The related member includes the amount as income on a return filed under
 25 this Part for the same taxable year that the amount is deducted by the
 26 taxpayer, and the related member does not elect to deduct the amount
 27 pursuant to G.S. 105-130.5(b)(20).

28 (2) The taxpayer can establish that the related member during the same taxable
 29 year directly or indirectly paid, accrued, or incurred the amount to a person
 30 who is not a related member.

31 (3) The taxpayer can establish that the related member to whom the amount was
 32 paid is organized under the laws of a country other than the United States,
 33 the country has a comprehensive income tax treaty with the United States,
 34 and the country imposes a tax on the royalty income of the related member
 35 at a rate that equals or exceeds the rate set in G.S. 105-130.3.

36 (d) Indirect Transactions. – For the purpose of this section, an indirect transaction or
 37 relationship has the same effect as if it were direct."

38 **SECTION 3.(h)** The following statutes are repealed:

39 G.S. 105-130.22 G.S. 105-151.1

40 G.S. 105-130.25

41 G.S. 105-130.34 G.S. 105-151.12

42 G.S. 105-130.36 G.S. 105-151.13

43 G.S. 105-130.37 G.S. 105-151.14

44 G.S. 105-130.43

45 G.S. 105-130.44 G.S. 105-151.25

46 G.S. 105-130.47 G.S. 105-151.29

47 **SECTION 3.(i)** Articles 3B, 3D, and 3H of Chapter 105 of the General Statutes are
 48 repealed.

49 **SECTION 3.(j)** G.S. 105-130.5(a)(10) and (a)(20) are repealed.

50 **SECTION 3.(k)** G.S. 105-129.45 reads as rewritten:

51 "**§ 105-129.45. Sunset.**

1 This Article is repealed effective January 1, ~~2015~~-2020. The repeal applies to developments
2 to which federal credits are allocated on or after ~~January 1, 2015~~; the date the Article is
3 repealed."

4 **SECTION 3.(l)** G.S. 105-129.51(b) reads as rewritten:

5 "(b) This Article is repealed for taxable years beginning on or after ~~January 1,~~
6 ~~2014~~-January 1, 2020."

7 **SECTION 3.(m)** This section becomes effective for taxable years beginning on or
8 after January 1, 2014.

9
10 **PART IV. REPLACE FRANCHISE TAX WITH A LOWER BUSINESS PRIVILEGE**
11 **TAX THAT INCLUDES ALL LIMITED LIABILITY ENTITIES**

12 **SECTION 4.1.(a)** The title of Article 3 of Chapter 105 of the General Statutes
13 reads as rewritten:

14 "Article 3.

15 ~~Franchise Tax.~~Business Privilege Tax."

16 **SECTION 4.1.(b)** G.S. 105-114, 105-114.1, 105-120.2, 105-121.1, 105-122,
17 105-122.1, 105-125, 105-127, 105-128, and 105-129 are repealed.

18 **SECTION 4.1.(c)** Article 3 of Chapter 105 of the General Statutes is amended by
19 adding the following new sections to read:

20 "**§ 105-114.2. Definitions.**

21 The following definitions apply in this Article:

- 22 (1) Affiliate. – A business entity under common ownership with another
23 business entity.
24 (2) Affiliated group. – Defined in section 1504 of the Code.
25 (3) Business entity. – Any of the following:
26 a. A domestic corporation organized under Chapter 55 of the General
27 Statutes or a foreign corporation that has received a certificate of
28 authority under that Chapter authorizing it to do business in this
29 State.
30 b. An electric membership corporation organized under Chapter 117 of
31 the General Statutes.
32 c. A domestic limited liability company formed under Chapter 57C of
33 the General Statutes or a foreign limited liability company that has
34 received a certificate of authority under that Chapter authorizing it to
35 do business in this State.
36 d. A domestic limited partnership formed under Article 5 of Chapter 59
37 of the General Statutes or a foreign limited partnership that has
38 received a certificate of authority under that Article authorizing it to
39 do business in this State.
40 e. A domestic limited liability partnership registered under Article 3B
41 of Chapter 59 of the General Statutes or a foreign limited liability
42 partnership registered under Article 4A of that Chapter.
43 f. A domestic or foreign limited liability limited partnership registered
44 under G.S. 59-210.
45 g. Any other business whose form of organization confers limited
46 liability on one or more of its owners.
47 (4) Capital interest. – The right of a business entity that is not a corporation to
48 receive a percentage of the business entity's assets upon dissolution after
49 payments to creditors.
50 (5) City. – Defined in G.S. 105-228.90.
51 (6) Code. – Defined in G.S. 105-228.90.

- 1 (7) Doing business. – Each and every act, power, or privilege exercised or
2 enjoyed in this State, as an incident to, or by virtue of the powers and
3 privileges granted by the laws of this State.
- 4 (8) Holding company. – A business entity that receives during its taxable year
5 more than eighty percent (80%) of its gross income from one or more
6 business entities with which it has common ownership.
- 7 (9) Ownership. – The direct or indirect control of more than fifty percent (50%)
8 of the outstanding voting stock or voting capital interests of a business
9 entity. Ownership of voting stock is determined by reference to the
10 constructive ownership rules for stock under section 318 of the Code.
11 Ownership of capital interests is determined by reference to the constructive
12 ownership rules for partnerships, estates, and trusts in section 318(a)(2)(A)
13 and (B) of the Code with the following modifications:
- 14 a. The term "capital interest" is substituted for "stock" each place it
15 appears.
- 16 b. A noncorporate limited liability company and any noncorporate
17 entity other than a partnership, estate, or trust is treated as a
18 partnership. A noncorporate entity does not include a human being.
19 A noncorporate limited liability company is a limited liability
20 company that does not elect to be taxed as a corporation under the
21 Code.
- 22 c. The operating rule of section 318(a)(5) of the Code applies without
23 regard to section 318(a)(5)(C).
- 24 (10) Parent. – A business entity that has ownership of another business entity.
- 25 (11) Secretary. – Defined in G.S. 105-228.90.
- 26 (12) Subsidiary. – A business entity under the ownership of another business
27 entity.
- 28 (13) Taxable year. – Defined in section 441(b) of the Code.

29 **"§ 105-114.3. Nature of tax.**

30 This Article imposes a privilege tax on a business entity for the privilege of doing business
31 in this State in an organizational form that confers limited liability on one or more owners of
32 the entity. The tax is an accrued tax and is imposed for the exercise of this privilege during the
33 period covered by a tax return. Payment of the tax imposed by this Article is a condition
34 precedent to the right to do business in this State and, for a business entity that is organized or
35 formed in this State, to the right to continue in the entity's organizational form. When a
36 noncorporate business entity is doing business in this State, each owner of the noncorporate
37 business entity is doing business in this State.

38 **"§ 105-114.4. Business privilege tax imposed.**

39 An annual privilege tax is imposed on a business entity doing business in this State at the
40 rate of one dollar (\$1.00) per one thousand dollars (\$1,000) of the higher of the business entity's
41 adjusted net worth tax base, determined in accordance with G.S. 105-114.5, and the business
42 entity's investment tax base, determined in accordance with G.S. 105-114.6. The tax payable by
43 a business entity may not be less than two hundred dollars (\$200.00). The tax payable by a
44 holding company may not be more than seventy-five thousand dollars (\$75,000).

45 After the end of the taxable year in which a business entity is dissolved, the entity is no
46 longer subject to the tax levied in this Article unless the Secretary finds that the entity has
47 engaged in business activities in this State not appropriate to winding up and liquidating its
48 business.

49 **"§ 105-114.5. Adjusted net worth tax base.**

50 The net worth of a business entity is the entity's total assets less its total liabilities,
51 computed in accordance with generally accepted accounting principles as of the end of the

1 entity's taxable year. If the entity does not maintain its books and records in accordance with
2 generally accepted accounting principles, then its net worth is computed in accordance with the
3 accounting method used by the entity for federal tax purposes so long as the method fairly
4 reflects the entity's net worth for purposes of the tax levied by this section. A business entity's
5 net worth is subject to the following adjustments:

6 (1) A liability may not be deducted unless it is a definite and accrued legal
7 liability.

8 (2) A deduction for depreciation and amortization is determined in accordance
9 with the method used for federal tax purposes.

10 (3) A deferred tax liability may be netted against a deferred tax asset but may
11 not decrease the deferred tax liability below zero.

12 (4) A deduction is allowed for billings in excess of costs that are considered a
13 deferred liability under the percentage of completion method of revenue
14 recognition.

15 (5) No deduction is allowed for indebtedness the business entity owes to a
16 parent, a subsidiary, or an affiliate. If part of the capital of the creditor
17 business entity is capital borrowed from a source other than a parent, a
18 subsidiary, or an affiliate, the debtor business entity may deduct a
19 proportionate part of the indebtedness based on the ratio of the borrowed
20 capital of the creditor business entity to the total assets of the creditor
21 business entity. If the creditor business entity is taxable under this Article,
22 the creditor business entity may deduct the indebtedness from its net worth,
23 to the extent the debtor business entity was not allowed to deduct the
24 indebtedness.

25 (6) A deduction is allowed for a reserve for the environmental equipment or
26 facilities listed in this subdivision if the business entity has a certification
27 from the appropriate environmental regulatory agency that the business
28 entity has installed or constructed the equipment or facility and is operating
29 it properly. For an air-cleaning device, the Department of Environment and
30 Natural Resources or a local air pollution agency certified under
31 G.S. 143-215.112 is the appropriate environmental regulatory agency. For
32 all other equipment and facilities, the Department of Environment and
33 Natural Resources is the appropriate environmental regulatory agency. This
34 subdivision applies to equipment or a facility whose primary purpose is to do
35 one of the following:

36 a. Reduce air or water pollution resulting from the emission of air
37 contaminants or the discharge of sewage or waste.

38 b. Recycle or recover solid waste.

39 c. Reduce the volume of hazardous waste generated.

40 (7) A corporation may deduct the cost of treasury stock.

41 (8) An international banking facility may deduct the amount of the facility's
42 assets employed outside the United States that exceeds the facility's
43 liabilities owed to a foreign person, as defined in G.S. 105-130.5(b)(13)d.

44 **"§ 105-114.6. Investment tax base.**

45 The investment tax base of a business entity is the entity's investment in real and tangible
46 personal property in this State as of the end of the entity's taxable year. A business entity's
47 investment in property is the original purchase price of or consideration for the property subject
48 to the following adjustments:

49 (1) A deduction for depreciation or amortization is determined in accordance
50 with the method used for federal tax purposes.

51 (2) The addition of improvements to the property.

- 1 (3) A deduction for indebtedness on the property or on an improvement to the
2 property.
- 3 (4) A deduction for a reserve for the environmental equipment or facilities for
4 which a deduction is allowed under G.S. 105-114.5 from the business
5 entity's net worth, if the entity has the required certification from the
6 appropriate environmental regulatory agency.
- 7 (5) For a business entity allowed a tax credit under Article 3E of this Chapter, a
8 deduction for the value of the property for which the credit is allowed.

9 **"§ 105-114.7. Exclusions in calculating tax.**

10 (a) Disregarded LLC. – A single member limited liability company whose single
11 member is a corporation is disregarded under this Article if it is disregarded for federal income
12 tax purposes. The corporation that is the single member of the disregarded limited liability
13 company must include the net worth and property of the disregarded limited liability company
14 in the corporation's tax base.

15 (b) No Tax Tiering. – A noncorporate business entity's ownership interest in another
16 noncorporate business entity that is taxable under this Article is excluded in determining the
17 owner's net worth under G.S. 105-114.5.

18 (c) Investment Companies. – The following exclusions apply to investment companies
19 in determining their tax liability under this Article:

20 (1) A regulated investment company may deduct the value of its investments in
21 stocks, bonds, debentures, or other securities or evidences of debt. A
22 regulated investment company is an entity that qualifies as a regulated
23 investment company under section 851 of the Code.

24 (2) A REIT may deduct the value of its investments in real property, unless the
25 REIT is a captive REIT. The terms "REIT" and "captive REIT" have the
26 same meanings as defined in G.S. 105-130.12.

27 (3) A venture capital company may deduct the value of its capital under
28 management. A venture capital company is an entity whose purpose is to
29 provide financing for start-up businesses and that obtains the capital it uses
30 to provide financing only from investors who are accredited investors under
31 17 C.F.R. § 230.215 or are institutional investors.

32 (d) Short Year Adjustment. – A business entity that changes its taxable year and files a
33 "short period" income tax return may deduct from its tax liability computed on an annual basis
34 the amount of tax previously paid that is applicable to the period subsequent to the beginning of
35 the new taxable year.

36 **"§ 105-114.8. Determination of ownership after certain transfers.**

37 (a) Transfers by Corporations. – Ownership of the capital interests in a noncorporate
38 business entity is determined as of the last day of the business entity's taxable year. If a
39 noncorporate business entity and a corporation or an affiliated group have engaged in a pattern
40 of transferring assets between them with the result that each did not own the capital interest on
41 the last day of its taxable year, the ownership of the capital interests in the noncorporate
42 business entity must be determined as of the last day of the corporation's or group of
43 corporations' taxable year.

44 (b) Tax-Free Distribution. – If a noncorporate business entity receives from a person a
45 tax-free contribution of assets under section 721 of the Code within 120 days after making a
46 tax-free distribution of assets to that person under section 732 of the Code with the result that
47 the business entity did not own the capital interests on the last day of its taxable year, the assets
48 that were distributed tax-free are considered owned by the business entity as of the last day of
49 its taxable year.

50 **"§ 105-114.9. Apportionment by multistate business entities.**

1 A business entity that is doing business in this State and in one or more other states must
2 apportion its net worth to this State. A corporation that is subject to income tax under Article 4
3 of this Chapter must use the fraction it applies in apportioning its income under that Article. A
4 business entity that is not subject to income tax under Article 4 of this Chapter must apportion
5 its net worth by using the fraction it would be required to apply in apportioning its income if it
6 were subject to that Article. A business entity that believes this apportionment method subjects
7 a greater portion of its net worth to tax under this section than is attributable to its business in
8 this State may make a written request to the Secretary for permission to use an alternative
9 method of apportionment, in the same manner as provided in G.S. 105-130.4(t1).

10 **"§ 105-114.10. Return and payment.**

11 The tax imposed by G.S. 105-114.4 is due when a return is due. A return is due on or before
12 the fifteenth day of the fourth month following the end of the business entity's income year. A
13 taxpayer may ask the Secretary for an extension of time to file a return under G.S. 105-263. A
14 business entity must file a return under affirmation with the Secretary at the place and in the
15 manner prescribed by the Secretary. The return must be signed by the president, vice president,
16 treasurer, or chief financial officer of the business entity.

17 ...

18 **"§ 105-116.2. Compensating privilege tax on seller that is not a registered retailer.**

19 (a) Tax. – An annual privilege tax is imposed on a person who sells tangible personal
20 property, digital property, or services at retail to a consumer, as defined in G.S. 105-164.3, and
21 who meets both of the following descriptions:

22 (1) The person is not registered as a retailer under Article 5 of this Chapter.

23 (2) The person reported gross sales of at least five million dollars (\$5,000,000)
24 on its most recent federal income tax return.

25 (b) Rate and Scope. – The tax is a percentage of the retailer's gross receipts derived
26 from sales within this State. The percentage rate of the tax is the same as the combined rate
27 under G.S. 105-164.3. This tax is in addition to the tax imposed by G.S. 105-114.4. The tax is
28 payable in the same manner as provided in G.S. 105-114.10.

29 (c) Noncompliance. – A debt owed to a person that does not comply with this section is
30 not collectible and is not subject to execution under Article 28 of Chapter 1 of the General
31 Statutes or any other provision of law. An assignment of a debt is subject to the collection
32 restrictions imposed by this subsection.

33 **"§ 105-116.3. Compensating privilege tax on unregulated electric power producer.**

34 (a) Tax. – An annual privilege tax is imposed on a person that meets all of the
35 following descriptions:

36 (1) Produces electric power by using the public waters of this State and sells the
37 electric it produces.

38 (2) Is not subject to regulation by the North Carolina Utilities Commission.

39 (3) Received at least five million dollars (\$5,000,000) in gross receipts during
40 the preceding calendar year from its sales of electric power.

41 (b) Rate. – The tax is a percentage of the person's gross receipts derived from sales of
42 electric power produced by use of the State's public waters. The percentage rate of the tax is the
43 same as the combined rate under G.S. 105-164.3. This tax is in addition to the tax imposed by
44 G.S. 105-114.4. The tax is payable in the same manner as provided in G.S. 105-114.10.

45 **"§ 105-125.1. Exempt business entities.**

46 A business entity listed in this section is exempt from the privilege tax imposed by
47 G.S. 105-114.4 unless it has unrelated business income. A business entity that is listed in this
48 section and has unrelated business income is subject to the tax imposed by G.S. 105-114.4 on
49 its adjusted net worth or property attributable to its unrelated business income. Upon request of
50 the Secretary, an exempt business entity must establish its claim for exemption in writing. The
51 exempt entities are:

- 1 (1) A business entity exempt from federal income tax under the Code.
- 2 (2) An insurance company subject to tax under Article 8B of this Chapter.
- 3 (3) A single member limited liability company that is disregarded for federal
 4 income tax purposes if the single member is a corporation and the
 5 disregarded limited liability company's net worth and property is included in
 6 that of its single member.
- 7 (4) A real estate mortgage investment conduit, as defined in section 860D of the
 8 Code."

9 **SECTION 4.1.(d)** This section is effective for taxable years beginning on or after
 10 January 1, 2015, and applies to taxes due in that year or a subsequent year.

11 **SECTION 4.2.(a)** G.S. 55-1-22 reads as rewritten:

12 "**§ 55-1-22. Filing, service, and copying fees.**

13 (a) The Secretary of State shall collect the following fees when the documents
 14 described in this subsection are delivered to the Secretary for filing:

Document	Fee
15 ...	
16 (23) Annual report-(paper)	25.00
17 (23a) Annual report (electronic)	No fee
18 ...	18.00

19 (b) The Secretary of State shall collect a fee of ten dollars (\$10.00) each time process is
 20 served on the Secretary under this Chapter. The party to a proceeding causing service of
 21 process is entitled to recover this fee as costs if the party prevails in the proceeding.

22 (c) The Secretary of State shall collect the following fees for copying, comparing, and
 23 certifying a copy of any filed document relating to a domestic or foreign corporation:

- 24 (1) One dollar (\$1.00) a page for copying or comparing a copy to the original.
- 25 (2) Fifteen dollars (\$15.00) for a paper certificate.
- 26 (3) Ten dollars (\$10.00) for an electronic certificate.

27 (d) ~~The fee for the annual report in subdivision (23) of this section is nonrefundable."~~

28 **SECTION 4.2.(b)** G.S. 55-16-22 reads as rewritten:

29 "**§ 55-16-22. Annual report.**

30 (a) ~~Except as provided in subsections (a1) and (a2) of this section, each domestic~~
 31 ~~corporation and each foreign corporation authorized to transact business in this State shall~~
 32 ~~deliver an annual report to the Secretary of Revenue in paper form or, in the alternative,~~
 33 ~~directly to the Secretary of State in electronic form as prescribed by the Secretary of State~~
 34 ~~under this section.~~Requirement. – The following businesses must file an annual report with the
 35 Secretary of State on a form prescribed by the Secretary and in the manner required by the
 36 Secretary:

- 37 (1) A corporation that is incorporated under this Chapter.
- 38 (2) A corporation that has received a certificate of authority under this Chapter
 39 authorizing the corporation to transact business in this State.
- 40 (3) A company that is an insurance company regulated under Chapter 58 of the
 41 General Statutes.

42 ~~(a1) Each insurance company subject to the provisions of Chapter 58 of the General~~
 43 ~~Statutes shall deliver an annual report to the Secretary of State.~~

44 ~~(a2) A domestic corporation governed by Chapter 55B of the General Statutes is exempt~~
 45 ~~from this section.~~

46 ~~(a3) The annual report required by this section shall be in a form jointly prescribed by~~
 47 ~~the Secretary of Revenue and the Secretary of State. The Secretary of Revenue shall provide~~
 48 ~~the form needed to file an annual report. The Secretary of State shall prescribe the form needed~~
 49 ~~to file an annual report electronically and shall provide this form by electronic means. The~~
 50 ~~annual report shall set forth all of the following:~~

- 1 (1) The name of the corporation and the state or country under whose law it is
2 incorporated.
3 (2) The street address, and the mailing address if different from the street
4 address, of the registered office, the county in which its registered office is
5 located, and the name of its registered agent at that office in this State, and a
6 statement of any change of such registered office or registered agent, or
7 both.
8 (3) The address and telephone number of its principal office.
9 (4) The names, titles, and business addresses of its principal officers.
10 (4a) Repealed by Session Laws 1997-475, s. 6.1, effective January 1, 1998.
11 (5) A brief description of the nature of its business.

12 ~~If the information contained in the most recently filed annual report has not changed, a~~
13 ~~certification to that effect may be made instead of setting forth the information required by~~
14 ~~subdivisions (2) through (5) of this subsection.~~

15 (b) Content. – An annual report must set out the information listed in this subsection.
16 The information must be current as of the date the business completes the report. ~~Information in~~
17 ~~the annual report must be current as of the date the annual report is executed on behalf of the~~
18 ~~corporation.~~ If the information set out in the business' most recent annual report has not
19 changed, the business may certify on its annual report that the information has not changed in
20 lieu of restating the information. A business may amend an annual report at any time to correct,
21 update, or augment information included in a prior report.

22 The following information must be included on the annual report of a business:

- 23 (1) Its name.
24 (2) The state or country under whose law it is incorporated or, if it is an
25 insurance company and is not a corporation, the state or country under
26 whose law it is organized.
27 (3) The street address of its registered office in this State, the county in which
28 the registered office is located, and the name of the registered agent at the
29 registered office. If the registered office or registered agent differs from the
30 registered office or registered agent listed on the preceding annual report, the
31 report must indicate that the registered office or registered agent has
32 changed. A change in registered office or registered agent that is indicated
33 on an annual report is effective when the report is filed.
34 (4) The mailing address of its registered office, if the street address of the office
35 is not the mailing address.
36 (5) The address and telephone number of its principal office.
37 (6) The name, title, and business address of each of its principal officers.
38 (7) A brief description of the nature of its business.

39 (c) Due Date. – An annual report is due by the 15th day of the fourth month following
40 the close of the fiscal year of the business filing the report. An annual report is delinquent if it
41 is not filed within 120 days after it is due. ~~eligible to be delivered to the Secretary of Revenue is~~
42 ~~due by the due date for filing the corporation's income and franchise tax returns. An extension~~
43 ~~of time to file a return is an extension of time to file an annual report. At the option of the filer,~~
44 ~~an annual report may be filed directly with the Secretary of State in electronic form. An annual~~
45 ~~report required to be delivered to the Secretary of State is due by the fifteenth day of the fourth~~
46 ~~month following the close of the corporation's fiscal year.~~

47 (d) Incomplete Report. – If the Secretary of State determines that an annual report filed
48 with the Secretary does not contain the information required by this section, the Secretary must
49 send a written notice to the business that the report is incomplete. An annual report that is
50 corrected to contain the information and filed with the Secretary within 30 days of the date of
51 the notice is considered timely filed. ~~If an annual report does not contain the information~~

1 required by this section, the Secretary of State shall promptly notify the reporting domestic or
2 foreign corporation in writing and return the report to it for correction. If the report is corrected
3 to contain the information required by this section and delivered to the Secretary of State within
4 30 days after the effective date of notice, it is deemed to be timely filed.

5 (e) Amendments to any previously filed annual report may be filed with the Secretary
6 of State at any time for the purpose of correcting, updating, or augmenting the information
7 contained in the annual report.

8 (f) Expired.

9 (g) When a statement of change of registered office or registered agent is filed in the
10 annual report, the change shall become effective when the statement is received by the
11 Secretary of State.

12 (h) If the Secretary of State does not receive an annual report within 120 days of the
13 date the return is due, the Secretary of State may presume that the annual report is delinquent.
14 This presumption may be rebutted by receipt of the annual report from the Secretary of
15 Revenue or by evidence of delivery presented by the filing corporation."

16 **SECTION 4.2.(c)** G.S. 57C-1-22(a)(25) reads as rewritten:

17 "(a) The Secretary of State shall collect the following fees when the documents
18 described in this subsection are delivered to the Secretary of State for filing:

<u>Document</u>	<u>Fee</u>
19 ...	
20 (25) Annual report	200.00 <u>No fee</u>
21"	

22 **SECTION 4.2.(d)** G.S. 59-35.2(a)(18) reads as rewritten:

23 "(a) The Secretary of State shall collect the following fees when the documents
24 described in this subsection are submitted by a partnership to the Secretary of State for filing:

Document	Fee
25 ...	
26 (18) Annual report	200.00 <u>No fee</u>
27"	

28 **SECTION 4.2.(e)** G.S. 59-1106(a)(22) reads as rewritten:

29 "(a) The Secretary of State shall collect the following fees when the documents
30 described in this subsection are delivered to the Secretary of State for filing:

Document	Fee
31 ...	
32 (22) Annual report for a limited liability limited partnership	200.00 <u>No fee</u>
33"	

34 **SECTION 4.2.(f)** G.S. 105-122.1 is repealed.

35 **SECTION 4.2.(g)** G.S. 105-228.90(a) reads as rewritten:

36 "(a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter, ~~to the~~
37 ~~annual report filing requirements of G.S. 55-16-22,~~ to the primary forest product assessment
38 levied under Article 12 of Chapter 113A of the General Statutes, and to inspection taxes levied
39 under Article 3 of Chapter 119 of the General Statutes."

40 **SECTION 4.2.(h)** G.S. 105-256.1 is repealed.

41 **SECTION 4.2.(i)** G.S. 105-259(a) reads as rewritten:

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

- 43 (1) Employee or officer. – The term includes a former employee, a former
44 officer, and a current or former member of a State board or commission.
- 45 (2) Tax information. – Any information from any source concerning the liability
46 of a taxpayer for a tax, as defined in G.S. 105-228.90. The term includes the
47 following:
48
49
50

- a. Information contained on a tax return, a tax report, or an application for a license for which a tax is imposed.
- b. Information obtained through an audit of a taxpayer or by correspondence with a taxpayer.
- c. Information on whether a taxpayer has filed a tax return or a tax report.
- d. A list or other compilation of the names, addresses, social security numbers, or similar information concerning taxpayers.

The term does not include ~~(i)~~ statistics classified so that information about specific taxpayers cannot be identified, ~~(ii) an annual report required to be filed under G.S. 55-16-22 or~~ (iii) identified or the amount of tax refunds paid to either a governmental entity listed in G.S. 105-164.14(c) or to a State agency."

SECTION 4.2.(j) This section becomes effective January 1, 2015. Subsection (f) of this section applies to returns due on or after April 15, 2015, for taxable years beginning on or after January 1, 2015. The remaining sections apply to annual reports due on or after January 1, 2015.

PART V. REDUCE SALES TAX RATE AND BROADEN SALES TAX BASE

SECTION 5.1.(a) G.S. 105-164.13(13c), (28), (30), (36), (39), and (50) are repealed.

SECTION 5.1.(b) G.S. 105-164.13C and G.S. 105-164.13D are repealed.

SECTION 5.1.(c) This section becomes effective July 1, 2013.

SECTION 5.2.(a) The following statutes are repealed:

- | | |
|---------------|--------------|
| G.S. 105-33 | G.S. 105-103 |
| G.S. 105-33.1 | G.S. 105-105 |
| G.S. 105-37.1 | G.S. 105-106 |
| G.S. 105-38.1 | G.S. 105-108 |
| G.S. 105-40 | G.S. 105-109 |

SECTION 5.2.(b) This section becomes effective January 1, 2014, and applies to receipts from admission tickets sold on or after that date.

SECTION 5.3.(a) G.S. 105-116, 105-116.1, 105-164.21A, and 159B-27(b), (c), (d), and (e) are repealed.

SECTION 5.3.(b) G.S. 105-164.13(44) and Article 5E of Chapter 105 of the General Statutes are repealed.

SECTION 5.3.(c) Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities Commission must lower the rate set for the following utilities:

- (1) Electricity to reflect the repeal of G.S. 105-116 and the resulting liability of electric power companies for the tax imposed under G.S. 105-114.4 and for the increase in the rate of tax imposed on sales of electricity under G.S. 105-164.4.
- (2) Piped natural gas to reflect the repeal of Article 5E of Chapter 105 of the General Statutes, the repeal of the credit formerly allowed under G.S. 105-122(d1), and the resulting liability of companies for the tax imposed on sales of piped natural gas under G.S. 105-164.4.

SECTION 5.3.(d) Notwithstanding G.S. 160A-211:

- (1) No city shall impose or collect any greater franchise, privilege, or license taxes, in the aggregate, on an electric power company that was imposed and collected on or before January 1, 1947.
- (2) A city may not levy a license, franchise, or privilege tax on a person engaged in the business of supplying piped natural gas.

1 **SECTION 5.3.(e)** This section becomes effective January 1, 2014. Subsection (a)
2 of this section applies to taxes due in the 2014 tax year or a subsequent year. Subsection (b) of
3 this section applies to piped natural gas received on or after January 1, 2014, pursuant to a sale
4 made on or before that date. The remainder of this section is effective when it becomes law.

5 **SECTION 5.4.(a)** G.S. 105-164.3 reads as rewritten:

6 **"§ 105-164.3. Definitions.**

7 The following definitions apply in this Article:

8 ...
9 (1c) Alteration, repair, maintenance, cleaning, and installation services. – The
10 term includes the activities listed in this subdivision:

11 a. Altering tangible personal property by tailoring, monogramming,
12 engraving, or making similar changes to the property.

13 b. Repairing tangible personal property to restore it to proper working
14 order.

15 c. Maintaining tangible personal property to keep the property in
16 working order, to avoid breakdown, or to prevent unnecessary
17 repairs.

18 d. Cleaning tangible personal property.

19 e. Installing tangible personal property.

20 ...
21 (2b) Capital equipment. – Equipment that is capitalized by the purchaser for tax
22 purposes under the Code and attachments and repair parts for that
23 equipment.

24 ...
25 (4a) ~~Combined general—rate.~~ – The State's general rate of tax set in
26 G.S. 105-164.4(a) plus the sum of the rates of the local sales and use taxes
27 authorized by Subchapter VIII of this Chapter for every county in this State.

28 ...
29 (5e) Datacenter equipment. – Capital equipment that is located and used at a
30 datacenter for any of the following:

31 a. For the provision of a service included in the business of the primary
32 user of the datacenter, including equipment cooling systems for
33 managing the performance of the property, hardware and software
34 for distributed and mainframe computers and servers, data storage
35 devices, network connectivity equipment, and peripheral components
36 and equipment.

37 b. For the generation, transformation, transmission, distribution, or
38 management of electricity, including exterior substations and other
39 capital equipment used for these purposes.

40 c. To provide related computer engineering or computer science
41 research.

42 ...
43 (35) Retailer. – A person engaged in the business of any of the following:

44 a. Making sales at retail, offering to make sales at retail, or soliciting
45 sales at retail of tangible personal property, digital property, or
46 services for storage, use, or consumption in this State. When the
47 Secretary finds it necessary for the efficient administration of this
48 Article to regard any sales representatives, solicitors, representatives,
49 consignees, peddlers, or truckers as agents of the dealers,
50 distributors, consignors, supervisors, employers, or persons under
51 whom they operate or from whom they obtain the items sold by them

1 regardless of whether they are making sales on their own behalf or on
2 behalf of these dealers, distributors, consignors, supervisors,
3 employers, or persons, the Secretary may so regard them and may
4 regard the dealers, distributors, consignors, supervisors, employers,
5 or persons as "retailers" for the purpose of this Article. A person who
6 sells tangible personal property, other than the person's own
7 household personal property, at a specialty market as defined in
8 G.S. 66-250 is a retailer.

9 b. Delivering, erecting, installing, or applying tangible personal
10 property for use in this State, regardless of whether the property is
11 permanently affixed to real property or other tangible personal
12 property.

13 c. Making a remote sale, if one of the conditions listed in
14 G.S. 105-164.8(b) is met.

15 ...
16 (38b) Service contract. – A warranty agreement, a maintenance agreement, a repair
17 contract, or a similar agreement or contract by which the seller agrees to
18 maintain or repair tangible personal property.

19 (38d) Short-term lease or rental. – Defined in G.S. 105-187.1."

20 **SECTION 5.4.(b)** G.S. 105-164.4 reads as rewritten:

21 "**§ 105-164.4. ~~Tax imposed on retailers.~~Privilege tax imposed on retailer at various rates.**

22 (a) Tax Imposed. – A privilege tax is imposed on a retailer at the following percentage
23 rates of the retailer's net taxable sales of tangible personal property, digital property, and
24 services. The general rate of tax is four and three-quarters percent (4.75%). The general rate
25 applies to a taxable item unless the item is subject to tax at the combined rate of tax or to a rate
26 of tax that differs from both the general rate and the combined rate. Subsection (b) of this
27 section lists the items that are subject to the general rate. An item taxable under subsection (b)
28 of this section is also subject to local sales and use tax. Subsection (c) of this section lists the
29 items that are subject to the combined rate.

30 (b) General Rate. – The general rate of tax applies to a retailer's net taxable sales of the
31 following:

32 (1) Tangible personal property. – Tangible personal property that is not subject
33 to tax under another subsection of this section. If tangible personal property
34 that is leased or rented is subject to a different rate under another subsection
35 of this section, then the rate and the maximum tax, if any, set in the other
36 subsection applies to the lease or rental of the property. A person who leases
37 or rents property must collect the tax imposed by this section on the separate
38 retail sale of the property.

39 (2) Digital property. – Digital property that is listed in this subdivision, is
40 delivered or accessed electronically, is not considered tangible personal
41 property, and would be taxable under this Article if sold in a tangible
42 medium. The tax applies regardless of whether the purchaser of the item has
43 a right to use it permanently or to use it without making continued payments.
44 The tax does not apply to a service that is taxed under another subdivision of
45 this subsection or to an information service. The following property is
46 subject to tax under this subdivision:

47 a. An audio work.

48 b. An audiovisual work.

49 c. A book, a magazine, a newspaper, a newsletter, a report, or another
50 publication.

51 d. A photograph or a greeting card.

- 1 e. Computer software.
- 2 (3) Accommodations. – The rental of an accommodation. These rentals are
3 taxed in accordance with G.S. 105-164.4E.
- 4 (4) Prepaid telephone service. – The sale or recharge of prepaid telephone
5 calling service. The tax applies regardless of whether tangible personal
6 property, such as a card or a telephone, is transferred. The tax applies to a
7 service that is sold in conjunction with prepaid wireless calling service.
8 Prepaid telephone calling service is taxable at the point of sale instead of at
9 the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid
10 telephone calling service taxed under this subdivision is not subject to tax as
11 a telecommunications service.
- 12 (5) Tangible personal property services. – Any of the following:
- 13 a. A service contract.
- 14 b. Alteration, repair, maintenance, cleaning, and installation services.
- 15 c. Short-term lease or rental of any of the following:
- 16 1. A mini-warehouse or other secure self-storage space.
- 17 2. Storage for furs and other clothing not held for sale.
- 18 3. Docking or storage for a boat or other watercraft.
- 19 4. Storage for an aircraft.
- 20 (6) Reserved.
- 21 (7) Reserved.
- 22 (8) Entertainment and recreation. – Charges for entertainment or recreational
23 activities are taxed in accordance with G.S. 105-164.4F.
- 24 (9) Satellite radio. – Satellite digital auto radio service. For services received by
25 a mobile or portable station, the service is sourced to the subscriber's
26 business or home address.
- 27 (c) Combined Rate. – The combined rate of tax applies to a retailer's net taxable sales of
28 the following:
- 29 (1) Telecommunications. – Providing telecommunications service and ancillary
30 service. These services are taxed in accordance with G.S. 105-164.4C.
- 31 (2) Video programming. – Providing video programming to a subscriber in this
32 State.
- 33 (3) Liquor. – Spirituous liquor other than mixed beverages. As used in this
34 subdivision, the terms "spirituous liquor" and "mixed beverage" have the
35 meanings provided in G.S. 18B-101.
- 36 (d) Manufactured and Modular Home. – The sale of a manufactured home or a modular
37 home is treated as if it were the sale of real property.
- 38 (a) ~~A privilege tax is imposed on a retailer at the following percentage rates of the~~
39 ~~retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and~~
40 ~~three quarters percent (4.75%).~~
- 41 (1) ~~The general rate of tax applies to the sales price of each item or article of~~
42 ~~tangible personal property that is sold at retail and is not subject to tax under~~
43 ~~another subdivision in this section.~~
- 44 (1a) ~~The rate of two percent (2%) applies to the sales price of each manufactured~~
45 ~~home sold at retail, including all accessories attached to the manufactured~~
46 ~~home when it is delivered to the purchaser. The maximum tax is three~~
47 ~~hundred dollars (\$300.00) per article. Each section of a manufactured home~~
48 ~~that is transported separately to the site where it is to be erected is a separate~~
49 ~~article.~~
- 50 (1b) ~~The rate of three percent (3%) applies to the sales price of each aircraft or~~
51 ~~boat sold at retail, including all accessories attached to the item when it is~~

- 1 delivered to the purchaser. The maximum tax is one thousand five hundred
2 dollars (\$1,500) per article.
- 3 ~~(1e), (1d) and (1e) Repealed by Session Laws 2005-276, s. 33.4(b), effective~~
4 ~~January 1, 2006.~~
- 5 ~~(1f) The rate of two and eighty three hundredths percent (2.83%) applies to the~~
6 ~~sales price of electricity that is measured by a separate meter or another~~
7 ~~separate device and sold to a commercial laundry or to a pressing and~~
8 ~~dry cleaning establishment for use in machinery used in the direct~~
9 ~~performance of the laundering or the pressing and cleaning service.~~
- 10 ~~a. Repealed by Session Laws 2007-397, s. 10(b), effective October 1,~~
11 ~~2007, and applicable to sales occurring on or after that date.~~
- 12 ~~b. Repealed by Session Laws 2006-66, s. 24.19(a), effective July 1,~~
13 ~~2007, and applicable to sales made on or after that date.~~
- 14 ~~c. Repealed by Session Laws 2007-397, s. 10(b), effective October 1,~~
15 ~~2007, and applicable to sales occurring on or after that date.~~
- 16 ~~(1g) Repealed by Session Laws 2004-110, s. 6.1, effective October 1, 2004, and~~
17 ~~applicable to sales of electricity made on or after that date.~~
- 18 ~~(1h) Expired pursuant to Session Laws 2004-110, s. 6.4, effective for sales made~~
19 ~~on or after October 1, 2007.~~
- 20 ~~(1i) Repealed by Session Laws 2007-397, s. 10(a), effective October 1, 2007,~~
21 ~~and applicable to sales occurring on or after that date.~~
- 22 ~~(1j) Repealed by Session Laws 2007-397, s. 10(f), effective July 1, 2010, and~~
23 ~~applicable to sales occurring on or after that date.~~
- 24 ~~a. Sales of electricity to manufacturing industries and manufacturing~~
25 ~~plants for use in connection with the operation of the industries and~~
26 ~~plants.~~
- 27 ~~b. Sales of electricity to farmers to be used by them for any farming~~
28 ~~purposes other than preparing food, heating dwellings, and other~~
29 ~~household purposes.~~
- 30 ~~(2) The applicable percentage rate applies to the gross receipts derived from the~~
31 ~~lease or rental of tangible personal property by a person who is engaged in~~
32 ~~the business of leasing or renting tangible personal property, or is a retailer~~
33 ~~and leases or rents property of the type sold by the retailer. The applicable~~
34 ~~percentage rate is the rate and the maximum tax, if any, that applies to a sale~~
35 ~~of the property that is leased or rented. A person who leases or rents property~~
36 ~~shall also collect the tax imposed by this section on the separate retail sale of~~
37 ~~the property.~~
- 38 ~~(3) A tax at the general rate applies to the gross receipts derived from the rental~~
39 ~~of an accommodation. The tax does not apply to a private residence or~~
40 ~~cottage that is rented for fewer than 15 days in a calendar year or to an~~
41 ~~accommodation rented to the same person for a period of 90 or more~~
42 ~~continuous days.~~
- 43 ~~Gross receipts derived from the rental of an accommodation include the~~
44 ~~sales price of the rental of the accommodation. The sales price of the rental~~
45 ~~of an accommodation is determined as if the rental were a rental of tangible~~
46 ~~personal property. The sales price of the rental of an accommodation~~
47 ~~marketed by a facilitator includes charges designated as facilitation fees and~~
48 ~~any other charges necessary to complete the rental.~~
- 49 ~~A person who provides an accommodation that is offered for rent is~~
50 ~~considered a retailer under this Article. A facilitator must report to the~~
51 ~~retailer with whom it has a contract the sales price a consumer pays to the~~

1 facilitator for an accommodation rental marketed by the facilitator. A retailer
2 must notify a facilitator when an accommodation rental marketed by the
3 facilitator is completed and, within three business days of receiving the
4 notice, the facilitator must send the retailer the portion of the sales price the
5 facilitator owes the retailer and the tax due on the sales price. A facilitator
6 that does not send the retailer the tax due on the sales price is liable for the
7 amount of tax the facilitator fails to send. A facilitator is not liable for tax
8 sent to a retailer but not remitted by the retailer to the Secretary. Tax
9 payments received by a retailer from a facilitator are held in trust by the
10 retailer for remittance to the Secretary. A retailer that receives a tax payment
11 from a facilitator must remit the amount received to the Secretary. A retailer
12 is not liable for tax due but not received from a facilitator. The requirements
13 imposed by this subdivision on a retailer and a facilitator are considered
14 terms of the contract between the retailer and the facilitator.

15 A person who, by written contract, agrees to be the rental agent for the
16 provider of an accommodation is considered a retailer under this Article and
17 is liable for the tax imposed by this subdivision. The liability of a rental
18 agent for the tax imposed by this subdivision relieves the provider of the
19 accommodation from liability. A rental agent includes a real estate broker, as
20 defined in G.S. 93A 2. The following definitions apply in this subdivision:

- 21 a. Accommodation.— A hotel room, a motel room, a residence, a
22 cottage, or a similar lodging facility for occupancy by an individual.
23 b. Facilitator.— A person who is not a rental agent and who contracts
24 with a provider of an accommodation to market the accommodation
25 and to accept payment from the consumer for the accommodation.

26 (4) Every person engaged in the business of operating a dry cleaning, pressing,
27 or hat blocking establishment, a laundry, or any similar business, engaged in
28 the business of renting clean linen or towels or wearing apparel, or any
29 similar business, or engaged in the business of soliciting cleaning, pressing,
30 hat blocking, laundering or linen rental business for any of these businesses,
31 is considered a retailer under this Article. A tax at the general rate of tax is
32 levied on the gross receipts derived by these retailers from services rendered
33 in engaging in any of the occupations or businesses named in this
34 subdivision. The tax imposed by this subdivision does not apply to receipts
35 derived from coin, token, or card operated washing machines, extractors,
36 and dryers. The tax imposed by this subdivision does not apply to gross
37 receipts derived from services performed for resale by a retailer that pays the
38 tax on the total gross receipts derived from the services.

39 (4a) The rate of three percent (3%) applies to the gross receipts derived from
40 sales of electricity, other than sales of electricity subject to tax under another
41 subdivision in this section. A person who sells electricity is considered a
42 retailer under this Article.

43 (4b) A person who sells tangible personal property at a specialty market, other
44 than the person's own household personal property, is considered a retailer
45 under this Article. A tax at the general rate of tax is levied on the sales price
46 of each article sold by the retailer at the specialty market. The term
47 "specialty market" has the same meaning as defined in G.S. 66 250.

48 (4c) The combined general rate applies to the gross receipts derived from
49 providing telecommunications service and ancillary service. A person who
50 provides telecommunications service or ancillary service is considered a

- 1 retailer under this Article. These services are taxed in accordance with
2 G.S. 105-164.4C.
- 3 (4d) ~~The sale or recharge of prepaid telephone calling service is taxable at the
4 general rate of tax. The tax applies regardless of whether tangible personal
5 property, such as a card or a telephone, is transferred. The tax applies to a
6 service that is sold in conjunction with prepaid wireless calling service.
7 Prepaid telephone calling service is taxable at the point of sale instead of at
8 the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid
9 telephone calling service taxed under this subdivision is not subject to tax as
10 a telecommunications service.~~
- 11 (5) ~~Repealed by Session Laws 1998-212, s. 29A.1(a), effective May 1, 1999.~~
- 12 (6) ~~The combined general rate applies to the gross receipts derived from
13 providing video programming to a subscriber in this State. A cable service
14 provider, a direct to home satellite service provider, and any other person
15 engaged in the business of providing video programming is considered a
16 retailer under this Article.~~
- 17 (6a) ~~The general rate applies to the gross receipts derived from providing satellite
18 digital audio radio service. For services received by a mobile or portable
19 station, the service is sourced to the subscriber's business or home address. A
20 person engaged in the business of providing satellite digital audio radio
21 service is a retailer under this Article.~~
- 22 (6b) ~~The general rate applies to the digital property that is listed in this
23 subdivision, is delivered or accessed electronically, is not considered
24 tangible personal property, and would be taxable under this Article if sold in
25 a tangible medium. The tax applies regardless of whether the purchaser of
26 the item has a right to use it permanently or to use it without making
27 continued payments. The tax does not apply to a service that is taxed under
28 another subdivision of this subsection or to an information service. The
29 following property is subject to tax under this subdivision:~~
- 30 a. ~~An audio work.~~
- 31 b. ~~An audiovisual work.~~
- 32 c. ~~A book, a magazine, a newspaper, a newsletter, a report, or another
33 publication.~~
- 34 d. ~~A photograph or a greeting card.~~
- 35 (7) ~~The combined general rate applies to the sales price of spirituous liquor
36 other than mixed beverages. As used in this subdivision, the terms
37 "spirituous liquor" and "mixed beverage" have the meanings provided in
38 G.S. 18B-101.~~
- 39 (8) ~~The rate of two and one-half percent (2.5%) applies to the sales price of each
40 modular home sold at retail, including all accessories attached to the
41 modular home when it is delivered to the purchaser. The sale of a modular
42 home to a modular homebuilder is considered a retail sale. A person who
43 sells a modular home at retail is allowed a credit against the tax imposed by
44 this subdivision for sales or use tax paid to another state on tangible personal
45 property incorporated in the modular home. The retail sale of a modular
46 home occurs when a modular home manufacturer sells a modular home to a
47 modular homebuilder or directly to the end user of the modular home.~~
- 48 (b) ~~The tax levied in this section shall be collected from the retailer and paid by him at
49 the time and in the manner as hereinafter provided. Provided, however, that any person
50 engaging or continuing in business as a retailer shall pay the tax required on the net taxable
51 sales of such business at the rates specified when proper books are kept showing separately the~~

1 ~~gross proceeds of taxable and nontaxable sales of tangible personal property in such form as~~
2 ~~may be accurately and conveniently checked by the Secretary or his duly authorized agent. If~~
3 ~~such records are not kept separately the tax shall be paid as a retailer on the gross sales of~~
4 ~~business and the exemptions and exclusions provided by this Article shall not be allowed. The~~
5 ~~tax levied in this section is in addition to all other taxes whether levied in the form of excise,~~
6 ~~license or privilege or other taxes.~~

7 ~~(e) Certificate of Registration. — Before a person may engage in business as a retailer or~~
8 ~~a wholesale merchant, the person must obtain a certificate of registration from the Department~~
9 ~~in accordance with G.S. 105-164.29."~~

10 **SECTION 5.4.(c)** The following statutes are repealed:

11 G.S. 105-164.3(8e)

12 G.S. 105-164.13(49)

13 G.S. 105-164.13(49a)

14 G.S. 105-164.44G

15 **SECTION 5.4.(d)** Article 5 of Chapter 105 of the General Statutes is amended by
16 adding the following new sections to read:

17 "**§ 105-164.4E. Accommodation rentals.**

18 (a) Definition. — The following definitions apply in this section:

19 (1) Accommodation. — A hotel room, a motel room, a residence, a cottage, or a
20 similar lodging facility for occupancy by an individual.

21 (2) Facilitator. — A person who is not a rental agent and who contracts with a
22 provider of an accommodation to market the accommodation and to accept
23 payment from the consumer for the accommodation.

24 (3) Rental agent. — The term includes a real estate broker, as defined in
25 G.S. 93A-2.

26 (b) Tax. — The gross receipts derived from the rental of an accommodation are taxed at
27 the general rate set in G.S. 105-164.4. Gross receipts derived from the rental of an
28 accommodation include the sales price of the rental of the accommodation. The sales price of
29 the rental of an accommodation is determined as if the rental were a rental of tangible personal
30 property. The sales price of the rental of an accommodation marketed by a facilitator includes
31 charges designated as facilitation fees and any other charges necessary to complete the rental.

32 (c) Facilitator Transactions. — A facilitator must report to the retailer with whom it has a
33 contract the sales price a consumer pays to the facilitator for an accommodation rental
34 marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental
35 marketed by the facilitator is completed and, within three business days of receiving the notice,
36 the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer
37 and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the
38 sales price is liable for the amount of tax the facilitator fails to send. A facilitator is not liable
39 for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received
40 by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A
41 retailer that receives a tax payment from a facilitator must remit the amount received to the
42 Secretary. A retailer is not liable for tax due but not received from a facilitator. The
43 requirements imposed by this section on a retailer and a facilitator are considered terms of the
44 contract between the retailer and the facilitator.

45 (d) Rental Agent. — A person who, by written contract, agrees to be the rental agent for
46 the provider of an accommodation is considered a retailer under this Article and is liable for the
47 tax imposed by this section. The liability of a rental agent for the tax imposed by this section
48 relieves the provider of the accommodation from liability.

49 (e) Exemptions. — The tax imposed by this section does not apply to the following:

50 (1) A private residence or cottage that is rented for fewer than 15 days in a
51 calendar year.

1 (2) An accommodation supplied to the same person for a period of 90 or more
2 continuous days.

3 **"§ 105.164.4F. Entertainment and recreation.**

4 (a) Tax. – Charges for an entertainment or recreational activity listed in this subsection
5 are taxed at the general rate set in G.S. 105-164.4. Charges include admission charges, user
6 charges, registration charges, membership charges, and charges for amenities. Offering an
7 activity listed in this subsection is a service.

8 (1) Charges for admittance to any of the following entertainment or recreational
9 activities:

10 a. A live performance or live event of any kind.

11 b. A movie or another audiovisual work.

12 c. A museum, a cultural site, a garden, an exhibit, a show, or a similar
13 attraction or a guided tour at any of these attractions.

14 (2) Charges that enable a consumer to play or participate in, or use property or a
15 facility to play or participate in, any of the entertainment or recreational
16 activities listed in this subdivision. A consumer's play or participation can be
17 in person or online. Charges for online play or participation include charges
18 to acquire virtual goods or attributes.

19 a. A game.

20 b. A sport.

21 c. A fitness activity.

22 (b) Exclusion for Membership Charges. – The tax imposed by this section does not
23 apply to the portion of a membership charge that meets any of the following descriptions:

24 (1) It is deductible as a charitable contribution under section 170 of the Code.

25 (2) It allows access to a dining facility or other property that does not enable the
26 member to play or participate in an entertainment or recreational activity
27 listed in subdivision (a)(2) of this section.

28 (c) Ticket Resales. – When an admission ticket is resold and the price of the admission
29 ticket is printed on the face of the ticket, the tax does not apply to the face price. When an
30 admission ticket is resold and the price of the admission ticket is not printed on the face of the
31 ticket, the tax applies to the difference between the amount the reseller paid for the ticket and
32 the amount the reseller charges for the ticket."

33 **SECTION 5.4.(e)** G.S. 105-164.13 is amended by adding the following new
34 subdivisions to read:

35 (60) Any of the following provided for tangible personal property that is exempt
36 from tax under this Article, other than an item exempt from tax under
37 G.S. 105-164.13(32):

38 a. A service contract.

39 b. Alteration, repair, maintenance, cleaning, or installation services.

40 (61) Reserved.

41 (62) A service provided by a self-employed individual who is 17 years of age or
42 younger.

43 (63) Admission charges to any of the following recreational or entertainment
44 activities:

45 a. An event that is held at an elementary or secondary school and is
46 sponsored by the school.

47 b. A commercial agricultural fair that meets the requirements of
48 G.S. 106-520.1, as determined by the Commissioner of Agriculture.

49 c. A festival or other recreational or entertainment activity that lasts no
50 more than seven consecutive days and is sponsored by a nonprofit
51 entity that is exempt from tax under Article 4 of this Chapter and

1 uses the entire proceeds of the activity exclusively for the entity's
2 nonprofit purposes. This exemption applies to no more than two
3 activities sponsored by the entity during a calendar year.

4 (64) Short-term lease or rental of a mini-warehouse or other secure self-storage
5 space by a member of the Armed Forces of the United States."

6 **SECTION 5.4.(f)** G.S. 105-187.3(a) reads as rewritten:

7 "(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of
8 the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as
9 provided in G.S. 105-187.4. ~~The maximum tax is one thousand dollars (\$1,000) for each~~
10 ~~certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor~~
11 ~~vehicle, as defined in G.S. 20-4.01. The maximum tax is one thousand five hundred dollars~~
12 ~~(\$1,500) for each certificate of title issued for a recreational vehicle that is not subject to the~~
13 ~~one thousand dollar (\$1,000) maximum tax."~~

14 **SECTION 5.4.(g)** This section becomes effective January 1, 2014, and applies to
15 sales made on or after that date and to gross receipts received on or after January 1, 2014, from
16 admissions purchased on or after that date. Gross receipts received on or after January 1, 2014,
17 from admissions purchased before that date are taxable under G.S. 105-37.1 or G.S. 105-38.1,
18 as appropriate.

19 **SECTION 5.5.(a)** G.S. 105-164.4(a), as amended by Section 5.4(b) of this act, is
20 further amended by adding the following new subdivisions to read:

21 "(6) Property care and maintenance services. – Any of the following:

- 22 a. Exterminating and controlling birds, mosquitoes, rodents, termites,
23 and other insects and pests.
24 b. Providing any of the following landscaping services:
25 1. Installing or maintaining a tree, shrub, plant, lawn, or garden,
26 either indoors or outdoors, or providing other similar
27 landscape care and maintenance services.
28 2. Installing or maintaining a walkway, retaining wall, deck,
29 fence, water feature, or other similar structure to enhance the
30 landscape of an area.
31 c. Cleaning the interior or exterior of a building or other structure.
32 d. Cleaning an item, such as a carpet or gutter, that is attached to a
33 structure.
34 e. Cleaning a driveway, a parking lot, a swimming pool, the grounds at
35 a building or other structure, or another outdoor area.

36 (7) Security services. – Any of the following:

- 37 a. Guard or security patrol service.
38 b. Armored car service.
39 c. Remote monitoring of a security alarm system.
40 d. Locksmith service.
41 e. Telematic service that provides communication, tracking, and
42 emergency response services to motor vehicle owners."

43 **SECTION 5.5.(b)** Part 2 of Article 5 of Chapter 105 of the General Statutes is
44 amended by adding a new section to read:

45 "**§ 105-164.12D. Tangible personal property installed by a person who provides a**
46 **landscaping service.**

47 A person who provides a landscaping service and who installs a tree, shrub, or other
48 tangible personal property in the course of providing the service may do so as a performance
49 contractor or as an installing retailer. A person who provides a landscaping service as a
50 performance contractor is the consumer of all tangible personal property installed in the course
51 of providing the service. When a person provides a landscaping service as an installing retailer,

1 the purchaser of the service and not the provider of the service is considered the consumer of
 2 tangible personal property installed in the course of providing the service.

3 A person is considered to provide a landscaping service as an installing retailer when the
 4 person installs tangible personal property in the course of providing a landscaping service and
 5 the person gives the purchaser a bill that separately states the sales price of the tangible
 6 personal property that is installed. In this circumstance, tax applies to the sales price of the
 7 tangible personal property that is separately stated and to the sales price of any other charges
 8 for the service, and the service provider's prior purchase of the separately stated tangible
 9 personal property is a purchase for resale. In the absence of a bill that separately states the sales
 10 price of tangible personal property that is installed by a person who provides a landscaping
 11 service, tax applies to the sales price of the service, and the provider's prior purchase of the
 12 tangible personal property that is installed is a purchase for use or consumption."

13 **SECTION 5.5.(c)** G.S. 105-164.13 is amended by adding the following
 14 subdivisions to read:

15 "(4h) A service provided to a farmer, as defined in subdivision (1) of this section,
 16 to control pests in crops grown for commercial purposes.

17 ...

18 (61) A property maintenance service described in G.S. 105-164.4(a)(6) that is
 19 provided for any of the following:

20 a. A newly constructed building or other structure.

21 b. A right-of-way or utility easement."

22 **SECTION 5.5.(d)** This section becomes effective July 1, 2014.

23 **SECTION 5.6.(a)** G.S. 105-164.13B reads as rewritten:

24 **"§ 105-164.13B. ~~Food exempt from tax.~~ Most food taxable at low rate.**

25 (a) ~~State Exemption.~~ State Tax. – Food is ~~exempt from the taxes imposed by this Article~~
 26 subject to tax at the rate of one percent (1%) unless the food is included in one of the
 27 subdivisions in this subsection. The following food items are subject to ~~tax~~ tax at the general
 28 rate:

29 (1) Repealed by Session Laws 2005-276, s. 33.10, effective October 1, 2005.

30 (2) Dietary supplements.

31 (3) Food sold through a vending machine.

32 (4) Prepared food, other than bakery items sold without eating utensils by an
 33 artisan bakery. The term "bakery item" includes bread, rolls, buns, biscuits,
 34 bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins,
 35 bars, cookies, and tortillas. An artisan bakery is a bakery that meets all of the
 36 following requirements:

37 a. It derives over eighty percent (80%) of its gross receipts from bakery
 38 items.

39 b. Its annual gross receipts, combined with the gross receipts of all
 40 related persons as defined in G.S. 105-163.010, do not exceed one
 41 million eight hundred thousand dollars (\$1,800,000).

42 (5) Soft drinks.

43 (6) Repealed by Session Laws 2003-284, s. 45.6B, effective January 1, 2004.

44 (7) Candy.

45 (b) ~~Administration of Local Food Tax.~~ Local Tax. – ~~The Secretary must administer local~~
 46 sales and use taxes imposed on food as if they were imposed under this Article. This applies to
 47 local taxes on food imposed under Subchapter VIII of this Chapter and under Chapter 1096 of
 48 the 1967 Session Laws. Food subject to tax under subsection (a) of this section is subject to a
 49 local tax at the rate of one percent (1%)."

50 **SECTION 5.6.(b)** G.S. 105-469(a) reads as rewritten:

1 "(a) The Secretary ~~shall~~must collect and administer a tax levied by a county pursuant to
2 this Article. Notwithstanding G.S. 105-472, As directed by G.S. 105-164.13B, taxes levied by a
3 ~~county on food are administered as if they were levied by the State under Article 5 of this~~
4 ~~Chapter. The~~the Secretary must, on a monthly basis, distribute local taxes levied on food
5 taxable at one percent (1%) under G.S. 105-164.13B to the taxing counties as follows:

6 (1) The Secretary must allocate one-half of the net proceeds on a per capita
7 basis according to the most recent annual population estimates certified to
8 the Secretary by the State Budget Officer. ~~The Secretary must then adjust the~~
9 ~~amount allocated to each county as provided in G.S. 105-486(b). The~~
10 ~~Secretary must include one half of the amount allocated under this~~
11 ~~subdivision in the distribution made under Article 40 of this Chapter and~~
12 ~~must include the remaining one half in the distribution made under Article~~
13 ~~42 of this Chapter.~~

14 (2) The Secretary must allocate the remaining net proceeds ~~proportionately to~~
15 ~~each taxing county based upon the amount of sales tax on food collected in~~
16 ~~the taxing county in the 1997-1998 fiscal year under Article 39 of this~~
17 ~~Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total~~
18 ~~amount of sales tax on food collected in all taxing counties in the 1997-1998~~
19 ~~fiscal year under Article 39 of this Chapter and under Chapter 1096 of the~~
20 ~~1967 Session Laws. The Secretary must include the amount allocated under~~
21 ~~this subdivision in the distribution made under Article 39 of this Chapter to~~
22 each taxing county based on the county of collection."

23 **SECTION 5.6.(c)** This section becomes effective July 1, 2015.

24 **SECTION 5.7.(a)** G.S. 105-164.13(1a)b., (4c), and (4d) are repealed.

25 **SECTION 5.7.(b)** Article 5F of Chapter 105 of the General Statutes and
26 G.S. 105-164.13(5a) are repealed.

27 **SECTION 5.7.(c)** G.S. 105-164.13 reads as rewritten:

28 "**§ 105-164.13. Retail sales and use tax.**

29 The sale at retail and the use, storage, or consumption in this State of the following tangible
30 personal property, digital property, and services are specifically exempted from the tax imposed
31 by this Article:

32 (1) Any of the following items sold to a farmer for use by the farmer in the
33 planting, cultivating, harvesting, or curing of farm crops or in the production
34 of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a
35 poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a
36 farmer of an aquatic species, as defined in G.S. 106-758.

37 a. Commercial fertilizer, lime, land plaster, plastic mulch, plant bed
38 covers, potting soil, baler twine, and seeds.

39 b. ~~Farm machinery, attachment and repair parts for farm machinery,~~
40 ~~and lubricants applied to farm machinery. The term "machinery"~~
41 ~~includes implements that have moving parts or are operated or drawn~~
42 ~~by an animal. The term does not include implements operated wholly~~
43 ~~by hand or machinery that is capital equipment, other than a motor~~
44 ~~vehicle~~vehicle required to be registered under Chapter 20 of the
45 General Statutes.

46 c. A horse or mule.

47 d. Fuel.

48 ...

49 (4f) Sales of the following to a person who is engaged in the commercial logging
50 business:

- 1 a. ~~Logging machinery. – Logging machinery is machinery~~ Machinery
2 that is used to harvest raw forest products for transport to first
3 market-market and is capital equipment.
4 b. ~~Attachments and repair parts for logging machinery.~~
5 e. ~~Lubricants applied to logging machinery.~~
6 d. Fuel used to operate logging machinery.
7
8 ...
9 (5b) Sales to a telephone company regularly engaged in providing
10 telecommunications service to subscribers on a commercial basis of the
11 following equipment that is capital equipment:
12 a. ~~entral-Central office equipment, switchboard equipment.~~
13 b. Switchboard equipment, private equipment.
14 c. Private branch exchange equipment, terminal equipment.
15 d. Terminal equipment other than public pay telephone terminal
16 equipment, and parts and accessories attached to the equipment.
17 (5c) Sales to a radio or television company licensed by the Federal
18 Communications Commission of towers, towers and broadcasting
19 equipment, and parts and accessories attached to the equipment to a radio or
20 television company licensed by the Federal Communications
21 Commission equipment that is capital equipment.
22 (5d) Sales to a cable service provider of broadcasting equipment and parts and
23 accessories attached to the equipment to a cable service provider. that is
24 capital equipment. For the purposes of this subdivision, "broadcasting
25 equipment" does not include cable.
26 (5e) Sales to a major recycling facility of the following for use in connection with
27 the facility:
28 a. Cranes, structural steel crane support systems, and foundations
29 related to the cranes and support systems.
30 b. Port and dock facilities.
31 c. Rail equipment.
32 d. Material handling equipment.
33 (5f) Sales of mill machinery that is capital equipment and is purchased by one of
34 the following:
35 a. A manufacturer. A manufacturer does not include a delicatessen,
36 café, cafeteria, restaurant, or another similar retailer that is
37 principally engaged in the retail sale of foods prepared by it for
38 consumption on or off its premises.
39 b. A contractor or subcontractor for use in the performance of a contract
40 with a manufacturer.
41 c. A subcontractor for use in the performance of a contract with a
42 general contractor that has a contract with a manufacturer.
43 (5g) Sales of capital equipment that is purchased by one of the following and
44 would be considered mill machinery if purchased by a manufacturing
45 industry or plant and used in manufacturing tangible personal property or in
46 the research and development of tangible personal property manufactured by
47 the industry or plant:
48 a. A research and development company in the physical, engineering,
49 and life sciences that is included in industry group 54171 of NAICS
50 for use by the company in the research and development of tangible
personal property.

- 1 b. A software publishing company that is included in industry group
- 2 5112 of NAICS for use by the company in the research and
- 3 development of tangible personal property.
- 4 c. An industrial machinery refurbishing company that is included in
- 5 industry group 811310 of NAICS for use by the company in
- 6 repairing or refurbishing tangible personal property.
- 7 (5h) Sales to a company located at a ports facility for waterborne commerce of
- 8 capital equipment for use at the facility to unload or process bulk cargo to
- 9 make the cargo suitable for delivery to and use by a manufacturer.
- 10 (5i) Datacenter machinery and equipment exempt from sales and use tax under
- 11 G.S. 105-164.13E.
- 12 ...
- 13 (10) Sales of the following to commercial laundries or to pressing and dry
- 14 cleaning establishments:
- 15 a. Articles or materials used for the identification of garments being
- 16 laundered or dry cleaned, wrapping paper, bags, hangers, starch,
- 17 soaps, detergents, cleaning fluids and other compounds or chemicals
- 18 applied directly to the garments in the direct performance of the
- 19 laundering or the pressing and cleaning service.
- 20 b. Laundry and dry-cleaning ~~machinery, parts and accessories attached~~
- 21 ~~to the machinery, and lubricants applied to the machinery.~~ machinery
- 22 that is capital equipment.
- 23 c. ~~Fuel, other than electricity.~~ Fuel used in the direct performance of the
- 24 laundering or the pressing and cleaning service. Electricity qualifies
- 25 for this exemption only if it is measured by a separate meter or
- 26 another separate device.

27 "

28 **SECTION 5.7.(d)** G.S. 105-164.13 reads as rewritten:

29 **"§ 105-164.13. Retail sales and use tax.**

30 The sale at retail and the use, storage, or consumption in this State of the following tangible

31 personal property, digital property, and services are specifically exempted from the tax imposed

32 by this Article:

33 ...

- 34 (3) Products of forests and mines in their original ~~or unmanufactured~~ state when
- 35 such sales are made by the producer in the capacity of producer.

36 ...

- 37 (7) Sales of products of waters in their original ~~or unmanufactured~~ state when
- 38 such sales are made by the producer in the capacity of producer. Fish and
- 39 seafoods are likewise exempt when sold by the fisherman in that capacity.

40 "

41 **SECTION 5.7.(e)** Part 3 of Article 5 of Chapter 105 of the General Statutes is

42 amended by adding a new section to read:

43 **"§ 105-164.13E. Exemption for datacenter.**

44 (a) Exemption. – Datacenter equipment is exempt from sales and use tax if it is located

45 and used at a datacenter that meets the requirements of subsection (b), (c), or (d) of this section.

46 Electricity used by a datacenter is exempt from sales and use tax if it is used at a datacenter that

47 meets the requirements of subsection (d) of this section.

48 (b) All Datacenters. – A datacenter qualifies under this subsection if it has received a

49 written determination from the Secretary of Commerce that it meets all of the following

50 requirements:

- 1 (1) The wage standard and health insurance requirements of
2 G.S. 143B-437.08A.
- 3 (2) The minimum investment level set in this subdivision for its location. The
4 level of investment must consist of private funds that have been or will be
5 invested in real and tangible property for the datacenter within five years of
6 the date the datacenter's owner makes its first property investment in the
7 datacenter.
- 8 a. For a datacenter in a development tier one area, the minimum
9 investment level is one hundred fifty million dollars (\$150,000,000).
- 10 b. For a datacenter located in a development tier two area or a
11 development tier three area, the minimum investment level is two
12 hundred twenty-five million dollars (\$225,000,000).
- 13 (c) Second Datacenter. – A datacenter qualifies under this subsection if it is owned by
14 or under common control with the owner of a datacenter that qualified under subsection (b) of
15 this section and it meets all of the following requirements:
- 16 (1) The Secretary of Commerce certifies that it meets the same requirements
17 that apply to the first datacenter under subsection (b) of this section except
18 that the minimum investment level is seventy-five million dollars
19 (\$75,000,000) and must be made within five years after the first datacenter is
20 placed in service.
- 21 (2) The two datacenters are linked through a fiber-optic connection or a similar
22 connection.
- 23 (3) The two datacenters are placed in service within five years of each other.
- 24 (d) Publishers and Portals. – A datacenter qualifies under this subsection if it meets all
25 of the following requirements:
- 26 (1) It is to be used primarily by a business engaged in software publishing
27 included in industry 511210 of NAICS or an Internet activity included in
28 industry 519130 of NAICS.
- 29 (2) It is comprised of a structure or series of structures located or to be located
30 on a single parcel of land or on contiguous parcels of land that are
31 commonly owned or owned by affiliation with the operator of the datacenter.
- 32 (3) It is located or to be located in a county that was designated an enterprise tier
33 one, two, or three area or a development tier one or two area.
- 34 (4) It has received a written determination from the Secretary of Commerce that
35 at least two hundred fifty million dollars (\$250,000,000) in private funds has
36 been or will be invested in real property or datacenter property within five
37 years after the commencement of construction of the datacenter.
- 38 (e) County Designation. – The enterprise or tier area of a county is determined as of the
39 date the datacenter applies to the Secretary of Commerce for a written determination of whether
40 it meets the requirements of those subsections. A change in a designation after certification by
41 the Secretary of Commerce does not affect the eligibility of a datacenter for the exemption
42 allowed under this section.
- 43 (f) Sunset. – The exemptions provided in subsections (b) and (c) of this section expire
44 for sales occurring on or after July 1, 2015."

45 **SECTION 5.7.(f)** This section becomes effective January 1, 2014.

46 **SECTION 5.8.(a)** G.S. 105-164.4(a), as amended by Section 5.4(b) of this act,
47 reads as rewritten:

48 "(a) Tax Imposed. – A privilege tax is imposed on a retailer at the following percentage
49 rates of the retailer's net taxable sales of tangible personal property, digital property, and
50 services. The general rate of tax is four and ~~three quarters~~ one-half percent (~~4.75%~~)(4.5%). The
51 general rate applies to a taxable item unless the item is subject to tax at the combined rate of tax

1 or to a rate of tax that differs from both the general rate and the combined rate. Subsection (b)
2 of this section lists the items that are subject to the general rate. An item taxable under
3 subsection (b) of this section is also subject to local sales and use tax. Subsection (c) of this
4 section lists the items that are subject to the combined rate."

5 **SECTION 5.8.(b)** This section becomes effective September 1, 2014.

6 **SECTION 5.9.(a)** Article 5 of Chapter 105 of the General Statutes is amended by
7 adding the following section to read:

8 "**§ 105-164.5B. Automatic rate decrease.**

9 At the beginning of each fiscal year, the State Budget Officer must certify to the Secretary
10 the amount of sales and use tax collections used to determine General Fund availability for the
11 State budget for that fiscal year. At the end of each fiscal year, the Secretary must determine
12 the extent to which sales and use tax collections for that year exceeded the amount certified by
13 the State Budget Officer. The general rate of tax set in G.S. 105-164.4 is decreased by
14 one-tenth of one percent (0.1%) if the amount of sales and use taxes collected in the fiscal year
15 exceed the amount certified by the State Budget Officer by at least one hundred sixty million
16 dollars (\$160,000,000). A rate decrease required by this section becomes effective October 1
17 following the fiscal year in which the overcollections occurred. The Secretary must notify
18 retailers of any rate decrease under this section."

19 **SECTION 5.9.(b)** This section becomes effective July 1, 2016.

20 **SECTION 5.10.(a)** G.S. 105-467(a) reads as rewritten:

21 "(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax
22 at the rate of one percent (1%) of the ~~transactions listed in this subsection. The sales tax~~
23 ~~authorized by this Article does not apply to sales that are taxable by the State under~~
24 ~~G.S. 105-164.4 but are not specifically included in this subsection following:~~

- 25 (1) ~~A retailer's net taxable sales and gross receipts that are~~ The sales price of
26 ~~tangible personal property~~ subject to the general rate of sales tax imposed by
27 the State under ~~G.S. 105-164.4(a)(1) and (a)(4b).~~ G.S. 105-164.4.
- 28 (2) ~~The gross receipts derived from the lease or rental of tangible personal~~
29 ~~property when the lease or rental of the property is subject to the general rate~~
30 ~~of sales tax imposed by the State under G.S. 105-164.4(a)(2).~~
- 31 (3) ~~The gross receipts derived from the rental of any room or other~~
32 ~~accommodations subject to the general rate of sales tax imposed by the State~~
33 ~~under G.S. 105-164.4(a)(3).~~
- 34 (4) ~~The gross receipts derived from services rendered by laundries, dry cleaners,~~
35 ~~and other businesses subject to the general rate of sales tax imposed by the~~
36 ~~State under G.S. 105-164.4(a)(4).~~
- 37 (5) The sales price of food that is not otherwise exempt from tax pursuant to
38 G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to
39 G.S. 105-164.13B.
- 40 (5a) The sales price of a bundled transaction that includes food subject to tax
41 under subdivision (5) of this subsection, if the price of the food exceeds ten
42 percent (10%) of the price of the bundle. A retailer must determine the price
43 of food in a bundled transaction in accordance with G.S. 105-164.4D.
- 44 (5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store
45 and are exempt from State tax under G.S. 105-164.13(27a).
- 46 (6) ~~The sales price of prepaid telephone calling service taxed as tangible~~
47 ~~personal property under G.S. 105-164.4(a)(4d).~~
- 48 (7) ~~The gross receipts derived from providing satellite digital audio radio service~~
49 ~~subject to the general rate of tax under G.S. 105-164.4(a)(6a)."~~

50 **SECTION 5.10.(b)** G.S. 105-467(a), as amended by subsection (a) of this section,
51 reads as rewritten:

"(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax at the rate of one percent (1%) of the following:

(5) The sales price of food ~~that is not otherwise exempt from tax pursuant to G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to subject to tax under~~ G.S. 105-164.13B.

(5a) The sales price of a bundled transaction that includes food subject to tax under ~~subdivision (5) of this subsection, G.S. 105-164.13B(b)~~ if the price of the food exceeds ten percent (10%) of the price of the bundle. A retailer must determine the price of food in a bundled transaction in accordance with G.S. 105-164.4D.

...."

SECTION 5.10.(c) Subsection (a) of this section becomes effective January 1, 2014. Subsection (b) of this section becomes effective July 1, 2015. This subsection is effective when it becomes law.

SECTION 5.11.(a) Section 3 of Chapter 347 of the 1965 Session Laws reads as rewritten:

"Sec. 3. All property owned by Cape Hatteras Electric Membership Corporation ~~and used exclusively for the purpose of said corporation shall be held in the same manner and subject to the same taxes and assessments is exempt from property taxes to the same extent as property owned by any county or municipality of the State so long as said the property is owned by said Cape Hatteras Electric Membership Corporation and is held and used by it solely for the furnishing of electric energy to consumers on Hatteras Island and Ocracoke Island. Cape Hatteras Electric Membership Corporation is subject to any other taxes to the same extent as other electric membership corporations established under Chapter 117 of the General Statutes."~~

SECTION 5.11.(b) This section becomes effective January 1, 2014.

PART VI. ELIMINATE ARCHAIC BUSINESS PRIVILEGE TAXES

SECTION 6.1.(a) The following statutes are repealed:

- G.S. 105-41
- G.S. 105-83
- G.S. 105-88
- G.S. 105-102.3
- G.S. 105-102.6

SECTION 6.1.(b) This section becomes effective January 1, 2014, and applies as follows:

- (1) For taxes payable under G.S. 105-41, 105-88, or 105-102.3, the section applies to taxes imposed under those statutes for taxable years beginning on or after July 1, 2014.
- (2) For taxes payable under G.S. 105-102.6, the section applies to taxes due on or after January 31, 2014.
- (3) For taxes payable under G.S. 105-83, the section applies to obligation dealt in, bought, or discounted on or after January 1, 2014.

SECTION 6.2.(a) The title of Article 2C of Chapter 105 of the General Statutes reads as rewritten:

"Article 2C.

Local Alcoholic Beverage License And Licenses and State Excise Taxes."

SECTION 6.2.(b) G.S. 105-113.69 reads as rewritten:

"§ 105-113.69. ~~License tax; effect~~ **Effect of license.**

~~The taxes imposed in Part 3 of this Article are license taxes on the privilege of engaging in the activity authorized by the license. Licenses issued under this Article authorize the licensee~~

1 to engage in only those activities that are authorized by the corresponding ABC permit. The
 2 activities authorized by each retail ABC permit are described in Article 10 of Chapter 18B of
 3 the General Statutes and the activities authorized by each commercial ABC permit are
 4 described in Article 11 of that Chapter."

5 **SECTION 6.2.(c)** G.S. 105-113.70(a) reads as rewritten:

6 **"§ 105-113.70. Issuance, duration, transfer of license.**

7 (a) Issuance, Qualifications. – Each person who receives an ABC permit shall obtain
 8 the corresponding local license, if any, under this Article. All local licenses are issued by the
 9 city or county where the establishment for which the license is sought is located. The
 10 information required to be provided and the qualifications for a local license are the same as the
 11 information and qualifications required for the corresponding ABC permit. Upon proper
 12 ~~application and payment of the prescribed tax, application,~~ issuance of a local license is
 13 mandatory if the applicant holds the corresponding ABC permit. No local license may be
 14 issued under this Article until the applicant has received from the ABC Commission the
 15 applicable permit for that activity, and no county license may be issued for an establishment
 16 located in a city in that county until the applicant has received from the city the applicable
 17 license for that activity."

18 **SECTION 6.2.(d)** G.S. 105-113.77 reads as rewritten:

19 **"§ 105-113.77. City beer and wine retail licenses.**

20 (a) ~~License and Tax. License.~~ – A person holding any of the following retail ABC
 21 permits for an establishment located in a city ~~shall~~ must obtain from the city a city license for
 22 that activity. ~~The annual tax for each license is as stated:~~

ABC Permit	Tax for Corresponding License
24 On-premises malt beverage.....	\$15.00
25 Off-premises malt beverage.....	5.00
26 On-premises unfortified wine, 27 on-premises fortified wine, or both.....	15.00
28 Off-premises unfortified wine, 29 off-premises fortified wine, or both.....	10.00

30 (b) ~~Tax on Additional License.~~ – ~~The tax stated in subsection (a) is the tax for the first~~
 31 ~~license issued to a person. The tax for each additional license of the same type issued to that~~
 32 ~~person for the same year is one hundred ten percent (110%) of the base license tax, that~~
 33 ~~increase to apply progressively for each additional license."~~

34 **SECTION 6.2.(e)** G.S. 105-113.78 reads as rewritten:

35 **"§ 105-113.78. County beer and wine retail licenses.**

36 A person holding any of the following retail ABC permits for an establishment located in a
 37 county ~~shall~~ must obtain from the county a county license for that activity. ~~The annual tax for~~
 38 ~~each license is as stated:~~

ABC Permit	Tax for Corresponding License
40 On-premises malt beverage.....	\$25.00
41 Off-premises malt beverage.....	5.00
42 On-premises unfortified wine, 43 on-premises fortified wine, or both.....	25.00
44 Off-premises unfortified wine, 45 off-premises fortified wine, or both.....	25.00"

46 **SECTION 6.2.(f)** G.S. 105-113.79 reads as rewritten:

47 **"§ 105-113.79. City wholesaler license.**

48 A city may require city malt beverage and wine wholesaler licenses for businesses located
 49 inside the city, but may not require a license for a business located outside the city, regardless
 50 whether that business sells or delivers malt beverages or wine inside the city. ~~The city may~~

1 charge an annual tax of not more than thirty seven dollars and fifty cents (\$37.50) for a city
2 malt beverage wholesaler or a city wine wholesaler license."

3 **SECTION 6.2(g)** This section becomes effective January 1, 2014, and applies to
4 taxes for periods beginning on or after May 1, 2014.

5 **SECTION 6.3.(a)** G.S. 153A-152 reads as rewritten:

6 "**§ 153A-152. Privilege No general authority for privilege license taxes.**

7 (a) Authority. ~~A county may levy privilege license taxes on trades, occupations,~~
8 ~~professions, businesses, and franchises to the extent authorized by Article 2 of Chapter 105 of~~
9 ~~the General Statutes and any other acts of the General Assembly. A county may levy privilege~~
10 ~~license taxes to the extent formerly authorized by the following sections of Article 2 of Chapter~~
11 ~~105 of the General Statutes before they were repealed:~~

12	G.S. 105-50	Pawnbrokers.
13	G.S. 105-53	Peddlers, itinerant merchants, and specialty market
14		operators.
15	G.S. 105-55	Installing elevators and automatic sprinkler systems.
16	G.S. 105-58	Fortune tellers, palmists, etc.
17	G.S. 105-65	Music machines.
18	G.S. 105-66.1	Electronic video games.
19	G.S. 105-80	Firearms dealers and dealers in other weapons.
20	G.S. 105-89	Automobiles, wholesale supply dealers and service
21		stations.
22	G.S. 105-89.1	Motorecycle dealers.
23	G.S. 105-90	Emigrant and employment agents.
24	G.S. 105-102.5	General business license.

25 (b) Telecommunications Restriction. ~~A county may not impose a license, franchise, or~~
26 ~~privilege tax on a company taxed under G.S. 105-164.4(a) (4c). A county may not levy a~~
27 ~~privilege license tax on a trade, occupation, profession, business, or franchise carried on within~~
28 ~~the county unless a statute or an act of the General Assembly authorizes the county to do so."~~

29 **SECTION 6.3.(b)** G.S. 160A-211 reads as rewritten:

30 "**§ 160A-211. Privilege No general authority for privilege license taxes.**

31 (a) Authority. ~~Except as otherwise provided by law, a city shall have power to levy~~
32 ~~privilege license taxes on all trades, occupations, professions, businesses, and franchises carried~~
33 ~~on within the city. A city may levy privilege license taxes on the businesses that were formerly~~
34 ~~taxed by the State under the following sections of Article 2 of Chapter 105 of the General~~
35 ~~Statutes only to the extent the sections authorized cities to tax the businesses before the sections~~
36 ~~were repealed:~~

37	G.S. 105-36	Amusements—Manufacturing, selling, leasing, or
38		distributing moving picture films.
39	G.S. 105-36.1	Amusements—Outdoor theatres.
40	G.S. 105-37	Amusements—Moving pictures—Admission.
41	G.S. 105-42	Private detectives and investigators.
42	G.S. 105-45	Collecting agencies.
43	G.S. 105-46	Undertakers and retail dealers in coffins.
44	G.S. 105-50	Pawnbrokers.
45	G.S. 105-51.1	Alarm systems.
46	G.S. 105-53	Peddlers, itinerant merchants, and specialty market
47		operators.
48	G.S. 105-54	Contractors and construction companies.
49	G.S. 105-55	Installing elevators and automatic sprinkler systems.
50	G.S. 105-61	Hotels, motels, tourist courts and tourist homes.
51	G.S. 105-62	Restaurants.

1	G.S. 105-65	Music machines.
2	G.S. 105-65.1	Merchandising dispensers and weighing machines.
3	G.S. 105-66.1	Electronic video games.
4	G.S. 105-74	Pressing clubs, dry cleaning plants, and hat blockers.
5	G.S. 105-77	Tobacco warehouses.
6	G.S. 105-80	Firearms dealers and dealers in other weapons.
7	G.S. 105-85	Laundries.
8	G.S. 105-86	Outdoor advertising.
9	G.S. 105-89	Automobiles, wholesale supply dealers, and service
10		stations.
11	G.S. 105-89.1	Motorecycle dealers.
12	G.S. 105-90	Emigrant and employment agents.
13	G.S. 105-91	Plumbers, heating contractors, and electricians.
14	G.S. 105-97	Manufacturers of ice cream.
15	G.S. 105-98	Branch or chain stores.
16	G.S. 105-99	Wholesale distributors of motor fuels.
17	G.S. 105-102.1	Certain cooperative associations.
18	G.S. 105-102.5	General business license.

19 ~~(b) Barbershop and Salon Restriction.—A privilege license tax levied by a city on a~~
 20 ~~barbershop or a beauty salon may not exceed two dollars and fifty cents (\$2.50) for each~~
 21 ~~barber, manicurist, cosmetologist, beautician, or other operator employed in the barbershop or~~
 22 ~~beauty salon.~~

23 ~~(c) Prohibition.—A city may not impose a license, franchise, or privilege tax on a~~
 24 ~~person engaged in any of the businesses listed in this subsection. These businesses are subject~~
 25 ~~to a State tax for which the city receives a share of the tax revenue.~~

26 ~~(1) Supplying piped natural gas taxed under Article 5E of Chapter 105 of the~~
 27 ~~General Statutes.~~

28 ~~(2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).~~

29 ~~(3) Providing video programming taxed under G.S. 105-164.4(a)(6).~~

30 ~~(d) Repealed by Session Laws 2006-151, s. 12, effective January 1, 2007. A city may~~
 31 ~~not levy a privilege license tax on a trade, occupation, profession, business, or franchise carried~~
 32 ~~on within the city unless a statute or an act of the General Assembly authorizes the city to do~~
 33 ~~so."~~

34 **SECTION 6.3.(c)** This section becomes effective July 1, 2014, and applies to taxes
 35 imposed for fiscal years beginning on or after that date.

36 **SECTION 6.4.(a)** G.S. 105-113.21 reads as rewritten:

37 "**§ 105-113.21. Discount; refund.**

38 ...

39 ~~(a1) Discount.—A distributor who files a timely report under G.S. 105-113.18 and who~~
 40 ~~sends a timely payment may deduct from the amount due with the report a discount of two~~
 41 ~~percent (2%). This discount covers expenses incurred in preparing the records and reports~~
 42 ~~required by this Part, and the expense of furnishing a bond.~~

43 ~~(b) Refund. – A distributor in possession of packages of stale or otherwise unsalable~~
 44 ~~cigarettes upon which the tax has been paid may return the cigarettes to the manufacturer as~~
 45 ~~provided in this subsection and apply to the Secretary for refund of the tax. The application~~
 46 ~~shall must be in the form prescribed by the Secretary and shall must be accompanied by an~~
 47 ~~affidavit from the manufacturer stating the number of cigarettes returned to the manufacturer~~
 48 ~~by the applicant. The Secretary shall must refund the tax paid, less the discount allowed, paid~~
 49 ~~on the unsalable cigarettes. The distributor must return the cigarettes to the manufacturer of the~~
 50 ~~cigarettes or to the affiliated manufacturer who is contracted by the manufacturer of the~~

1 cigarettes to serve as the manufacturer's agent for the purposes of validating quantities and
2 disposing of unsalable cigarettes."

3 **SECTION 6.4.(b)** G.S. 105-113.39 reads as rewritten:

4 "**§ 105-113.39. Discount; refund.**

5 (a) ~~Discount. — A wholesale dealer or a retail dealer who is primarily liable under~~
6 ~~G.S. 105-113.35(b) for the excise taxes imposed by this Part, who files a timely report under~~
7 ~~G.S. 105-113.37, and who sends a timely payment may deduct from the amount due with the~~
8 ~~report a discount of two percent (2%). This discount covers expenses incurred in preparing the~~
9 ~~records and reports required by this Part and the expense of furnishing a bond.~~

10 (b) Refund. — A wholesale dealer or retail dealer who is primarily liable under
11 G.S. 105-113.35(b) for the excise taxes imposed by this Part and is in possession of stale or
12 otherwise unsalable tobacco products upon which the tax has been paid may return the tobacco
13 products to the manufacturer and apply to the Secretary for refund of the tax. The application
14 ~~shall~~must be in the form prescribed by the Secretary and ~~shall~~must be accompanied by an
15 affidavit from the manufacturer listing the tobacco products returned to the manufacturer by the
16 applicant. The Secretary ~~shall~~must refund the tax ~~paid, less the discount allowed, paid~~ on the
17 listed products."

18 **SECTION 6.4.(c)** G.S. 105-113.85 is repealed.

19 **SECTION 6.4.(d)** This section becomes effective July 1, 2014, and applies to
20 returns filed for periods beginning on or after that date.

21
22 **PART VII. REPLACE LOCAL DISTRIBUTIONS WITH EXPANDED LOCAL**
23 **SALES TAX BASE**

24 **SECTION 7.1.(a)** G.S. 105-113.82 is repealed.

25 **SECTION 7.1.(b)** G.S. 108A-93 reads as rewritten:

26 "**§ 108A-93. Withholding of State moneys from counties failing to pay public assistance**
27 **costs.**

28 The Director of the Budget may withhold from any county that does not pay its full share of
29 public assistance costs to the State and has not obtained a loan for repayment under
30 G.S. 108A-89, any State moneys appropriated from the General Fund for public assistance and
31 related administrative costs, or may direct the Secretary of Revenue and State Controller to
32 withhold any tax owed to a county under ~~G.S. 105-113.82~~, Subchapter VIII of Chapter 105 of
33 the General ~~Statutes~~, Statutes or Chapter 1096 of the Session Laws of 1967. The Director of the
34 Budget ~~shall~~must notify the chair of the board of county commissioners of the proposed action
35 prior to the withholding of funds."

36 **SECTION 7.1.(c)** This section becomes effective July 1, 2014.

37 **SECTION 7.2.(a)** G.S. 105-486(b) is repealed.

38 **SECTION 7.2.(b)** This section becomes effective January 1, 2014.

39 **SECTION 7.3.(a)** Notwithstanding G.S. 105-523, the amount of a county's hold
40 harmless payment for the 2013-2014 fiscal year is one-half of the amount calculated under that
41 statute.

42 **SECTION 7.3.(b)** G.S. 105-523 is repealed.

43 **SECTION 7.3.(c)** Subsection (a) of this section becomes effective July 1, 2013.
44 Subsection (b) of this section becomes effective July 1, 2014. This subsection is effective when
45 it becomes law.

46 **SECTION 7.4.(a)** G.S. 115C-546.1 reads as rewritten:

47 "**§ 115C-546.1. Creation of Fund; administration.**

48 (a) There is created the Public School Building Capital Fund. The Fund shall be used to
49 assist county governments in meeting their public school building capital needs and their
50 equipment needs under their local school technology plans.

1 ~~(b) Each calendar quarter, the Secretary of Revenue shall remit to the State Treasurer~~
 2 ~~for credit to the Public School Building Capital Fund an amount equal to the applicable fraction~~
 3 ~~provided in the table below of the net collections received during the previous quarter by the~~
 4 ~~Department of Revenue under G.S. 105-130.3. All funds deposited in the Public School~~
 5 ~~Building Capital Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.~~

6 Period	7 Fraction
8 10/1/97 to 9/30/98	9 One-fifteenth (1/15)
10 10/1/98 to 9/30/99	11 Two-twenty-ninths (2/29)
12 10/1/99 to 9/30/00	13 One-fourteenth (1/14)
14 After 9/30/00	15 Five-sixty-ninths (5/69)

16 (c) The Fund shall be administered by the Department of Public Instruction."

17 **SECTION 7.4.(b)** G.S. 115C-546.2(a) is repealed.

18 **SECTION 7.4.(c)** This section becomes effective April 1, 2014, and applies to
 19 distributions for collections for quarters beginning on or after that date.

20 **PART VIII. TRANSITIONAL PROVISIONS**

21 **SECTION 8.(a)** G.S. 105-237.1(a) reads as rewritten:

22 "(a) Authority. – The Secretary may compromise a taxpayer's liability for a tax that is
 23 collectible under G.S. 105-241.22 when the Secretary determines that the compromise is in the
 24 best interest of the State and makes one or more of the following findings:

- 25 ...
- 26 (6) The taxpayer is a retailer or a consumer under Article 5 of this Chapter, the
 27 assessment is for sales or use tax the retailer failed to collect or the consumer
 28 failed to pay on an item that first became taxable under that Article on or
 29 after January 1, 2014, and the retailer or consumer made a good faith effort
 30 to comply with the sales and use tax laws."

31 **SECTION 8.(b)** The Revenue Laws Study Committee is directed to study the
 32 fiscal impact of the changes proposed by this act and to recommend to the General Assembly
 33 any adjustments needed. The Committee is specifically directed to address the following:

- 34 (1) The application of the business privilege tax on related business entities and
 35 to recommend to the General Assembly any changes needed to prevent
 36 vertical or horizontal pyramiding of the tax.
- 37 (2) The amount of additional revenue received by counties and cities as a result
 38 of the expansion of the sales tax base in this act and the amount by which
 39 local revenue is reduced by the repeal of local privilege license taxes and
 40 other taxes.
- 41 (3) The reasons for the remaining distributions of State tax revenue to local
 42 governments and ways to eliminate as many of these distributions as
 43 possible.

44 **SECTION 8.(c)** This act does not affect the rights or liabilities of the State, a
 45 taxpayer, or another person arising under a statute amended or repealed by this act before the
 46 effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a
 47 tax that accrued under the amended or repealed statute before the effective date of its
 48 amendment or repeal.

49 **SECTION 8.(d)** This section is effective when it becomes law. Subsection (a) of
 50 this section expires January 1, 2024.

51 **PART IX. PRIVILEGE TAX CONFORMING CHANGES**

52 **SECTION 9.(a)** G.S. 93-12(12) and G.S. 105-259(b)(4) are repealed.

53 **SECTION 9.(b)** G.S. 53-165 reads as rewritten:

54 "§ 53-165. Definitions.

1 The following definitions apply in this Article:

- 2 ~~(a)(1) "Amount of the loan" shall mean the Amount of the loan. – The aggregate of~~
 3 ~~the cash advance and the charges authorized by G.S. 53-173 and~~
 4 ~~G.S. 53-176.~~
- 5 ~~(b)(2) "Borrower" shall mean any Borrower. – A person who borrows money from~~
 6 ~~any licensee or who pays or obligates himself to pay any money from, pays~~
 7 ~~or is obligated to pay money to, or otherwise furnishes any valuable~~
 8 ~~consideration to any licensee for any act of the licensee as a licensee.~~
- 9 ~~(c)(3) "Cash advance" shall mean the Cash advance. – The amount of cash or its~~
 10 ~~equivalent that the a borrower actually receives or is paid out at his~~
 11 ~~discretion or on his behalf. the discretion of the borrower or on behalf of the~~
 12 ~~borrower.~~
- 13 ~~(d)(4) "Commission" shall mean the Commission. – The State Banking~~
 14 ~~Commission.~~
- 15 ~~(e)(5) "Commissioner" shall mean the Commissioner. – The Commissioner of~~
 16 ~~Banks.~~
- 17 ~~(f)(6) "Deputy commissioner" shall mean the Deputy commissioner. – The deputy~~
 18 ~~commissioner of banks.~~
- 19 ~~(7) Installment paper dealer. – A person who buys or discounts notes or other~~
 20 ~~evidences of debt secured, at the time the debt is incurred, by personal~~
 21 ~~property located in this State.~~
- 22 ~~(g)(8) "License" shall mean the License. – The certificate issued by the~~
 23 ~~Commissioner under the authority of this Article to conduct a consumer~~
 24 ~~finance business.~~
- 25 ~~(h)(9) "Licensee" shall mean a Licensee. – A person to whom one or more licenses~~
 26 ~~have been issued.~~
- 27 ~~(i)(10) "Loanable assets" shall mean cash or bank deposits or installment loans~~
 28 ~~made as a licensee pursuant to this Article or installment loans made as a~~
 29 ~~licensee pursuant to the Article which this Article supersedes or such other~~
 30 ~~loans payable on an installment basis as the Commissioner of Banks may~~
 31 ~~approve, or any combination of two or more thereof. Loanable assets. – Cash,~~
 32 ~~bank deposits, installment loans, or any combination of these.~~
- 33 ~~(j)(11) "Person" shall include any person, Person. – An individual, a firm, a~~
 34 ~~partnership, association or corporation. an association, a limited liability~~
 35 ~~company, a corporation, or another group acting as a unit."~~

36 **SECTION 9.(c)** G.S. 53-172(a) reads as rewritten:

37 "(a) No licensee shall conduct the business of making loans under this Article within any
 38 office, suite, room, or place of business in which any other business is solicited or transacted.
 39 The business of making loans includes acting as an installment paper dealer and collecting a
 40 loan made by a government regulated lender.

41 ~~Installment paper dealers as defined in G.S. 105-83, and the collection by a licensee of~~
 42 ~~loans legally made in North Carolina, or another state by another government regulated lender~~
 43 ~~or lending agency, shall not be considered as being any other business within the meaning of~~
 44 ~~this section."~~

45 **SECTION 9.(d)** G.S. 53-191 reads as rewritten:

46 "**§ 53-191. Businesses exempted.**

47 ~~Nothing in this This Article shall be construed to does not apply to any person, firm or~~
 48 ~~corporation person doing business under the authority of any law of this State or of the United~~
 49 ~~States relating to banks, trust companies, savings and loan associations, cooperative credit~~
 50 ~~unions, agricultural credit corporations or associations organized under the laws of North~~
 51 ~~Carolina, production credit associations organized under the act of Congress known as the~~

1 federal Farm Credit Act of 1933, pawnbrokers lending or advancing money on specific articles
2 of personal property, industrial banks, ~~the business of negotiating businesses that negotiate or~~
3 solicit loans on real estate as defined in G.S. 105-41, agent for another for compensation, ~~not to~~
4 or installment paper dealers as defined in G.S. 105-83 other than persons, firms and
5 corporations other than persons engaged in the business of accepting fees for endorsing or
6 otherwise securing loans or contracts for the repayment of loans."

7 **SECTION 9.(e)** G.S. 95-47.2(d)(3)c. reads as rewritten:

8 "(d) Upon the receipt of an application for a license the Commissioner:

9 ...

10 (3) Upon completion of the investigation, or 60 days after the application was
11 received, whichever is later, but in no case more than 75 days after the
12 application was received, shall determine whether or not a license should be
13 issued. The license shall be denied for any of the following reasons:

14 ...

15 c. If the employment agency will be operated on the same premises as a
16 ~~loan agency (as defined in G.S. 105-88) or collection agency (as~~
17 ~~defined in G.S. 58-70-15).~~any of the following:

- 18 1. A business that makes loans and takes as security for
19 repayment of the loans an assignment of wages or any other
20 type of security.
- 21 2. A check cashing business regulated under Article 22 of
22 Chapter 53 of the General Statutes.
- 23 3. A pawnbroker business regulated under Chapter 91A of the
24 General Statutes.
- 25 4. A collection agency, as defined in G.S. 58-70-15."

26 **SECTION 9.(f)** G.S. 105-130.6A(a)(2) reads as rewritten:

27 "(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of
28 whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the
29 following definitions apply in this section:

30 ...

31 (2) Bank holding company. – A holding company with an affiliate that is ~~subject~~
32 ~~to the privilege tax on banks levied in G.S. 105-102.3.~~engaged in the
33 business of banking.

34"

35 **SECTION 9.(g)** This section becomes effective January 1, 2014.

36 37 **PART X. FRANCHISE AND CORPORATE INCOME TAX CONFORMING** 38 **CHANGES**

39 **SECTION 10.(a)** G.S. 105-129.27(b) reads as rewritten:

40 "(b) Taxes Credited. – The credit provided in this section is allowed against the ~~franchise~~
41 privilege tax levied in Article 3 of this Chapter and the income tax levied in Part 1 of Article 4
42 of this Chapter. Any other nonrefundable credits allowed the owner are subtracted before the
43 credit allowed by this section."

44 **SECTION 10.(b)** G.S. 105-129.41(a1) reads as rewritten:

45 "(a1) Tax Election. – The credit allowed in this section is allowed against the ~~franchise~~
46 privilege tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of this
47 Chapter, or the gross premiums tax levied in Article 8B of this Chapter. The taxpayer must
48 elect the tax against which the credit will be claimed when filing the return on which the first
49 installment of the credit is claimed. This election is binding. Any carryforwards of the credit
50 must be claimed against the same tax."

51 **SECTION 10.(c)** G.S. 105-129.50 reads as rewritten:

1 **"§ 105-129.50. Definitions.**

2 The definitions in section 41 of the Code apply in this Article. In addition, the following
3 definitions apply in this Article:

- 4 (1) Development tier one area. – Defined in G.S. 143B-437.08.
5 (1a) Establishment. – Defined in 29 C.F.R. § 1904.46, as it existed on January 1,
6 2002.
7 (2) Full-time job. – Defined in G.S. 105-129.81.
8 (3) Reserved.
9 (4) North Carolina university research expenses. – Any amount the taxpayer
10 paid or incurred to a research university for qualified research performed in
11 this State or basic research performed in this State.
12 (4a) Participating community college. – A community college, as defined in
13 G.S. 115D-2, that offers an associate in applied science degree in simulation
14 and game development.
15 (5) Period of measurement. – Defined in the Small Business Size Regulations of
16 the federal Small Business Administration.
17 (6) Qualified North Carolina research expenses. – Qualified research expenses,
18 other than North Carolina university research expenses, for research
19 performed in this State.
20 (7) Receipts. – Defined in the Small Business Size Regulations of the federal
21 Small Business Administration.
22 (8) ~~Related person.~~ – ~~Defined in G.S. 105-163.010.~~ A person described in one of
23 the relationships set forth in section 267(b) or 707(b) of the Code.
24 (9) Research university. – An institution of higher education that meets one or
25 both of the following conditions:
26 a. It is classified as one of the following in the most recent edition of
27 "A Classification of Institutions of Higher Education", the official
28 report of The Carnegie Foundation for the Advancement of
29 Teaching:
30 1. Doctoral/Research Universities, Extensive or Intensive.
31 2. Masters Colleges and Universities, I or II.
32 3. Baccalaureate Colleges, Liberal Arts or General.
33 b. It is a constituent institution of The University of North Carolina.
34 (10) Small business. – A business whose annual receipts, combined with the
35 annual receipts of all related persons, for the applicable period of
36 measurement did not exceed one million dollars (\$1,000,000)."

37 **SECTION 10.(d)** G.S. 105-129.51 reads as rewritten:

38 **"§ 105-129.51. Administration; Additional eligibility requirements and sunset.**

39 (a) Requirements. – A taxpayer is eligible for the credit allowed in this Article if it
40 satisfies the ~~requirements of G.S. 105-129.83(e), (d), (e), and (f) relating to wage standard,~~
41 ~~health insurance, environmental impact, and safety and health programs, respectively following~~
42 standards:

- 43 (1) Wage. – For research performed at an establishment in a development tier
44 two or development tier three area, the taxpayer must meet the general wage
45 standard or, if applicable, the zone wage standard published by the Secretary
46 of Commerce under G.S. 143B-437.010A. For research performed at an
47 establishment in a development tier one area, no wage standard applies.
48 (2) Health insurance. – The health insurance standard set in
49 G.S. 143B-437.010A applies to all the jobs at an establishment for which a
50 credit or a carryforward of a credit is claimed under this Article. If a
51 taxpayer qualifies for a credit under this Article and then fails to meet the

1 health insurance standard during a taxable year, the credit expires, and the
2 taxpayer may not take any remaining carryforwards of the credit.

3 (3) Environmental impact. – The environmental standard set in
4 G.S. 143B-437.010A applies to a taxpayer who claims a credit under this
5 Article. A taxpayer must meet the standard at the time the taxpayer claims
6 the credit.

7 (4) Employee safety and health. – The employee safety and health standard set
8 in G.S. 143B-437.010A applies to a taxpayer who claims a credit under this
9 Article. A taxpayer must meet the standard at the time the taxpayer claims
10 the credit.

11 (b) Sunset. – This Article is repealed for taxable years beginning on or after January 1,
12 2014.

13 (c) Repealed by Session Laws 2004-124, s. 32D.4, effective for taxable years beginning
14 on or after January 1, 2006."

15 **SECTION 10.(e)** G.S. 105-129.96(b) reads as rewritten:

16 "(b) Taxes Credited. – The credit provided in this section is allowed against the ~~franchise~~
17 ~~privilege~~ tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this
18 Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the
19 return on which the first installment of the credit is claimed. This election is binding. The credit
20 may not exceed fifty percent (50%) of the tax against which it is applied. Any unused portion
21 of a credit may be carried forward for the succeeding 10 years. Any carryforwards of a credit
22 must be claimed against the same tax."

23 **SECTION 10.(f)** G.S. 105-130.6A(a) reads as rewritten:

24 "(a) Definitions. – The provisions of G.S. 105-130.6 govern the determination of
25 whether a corporation is a subsidiary or an affiliate of another corporation. In addition, the
26 following definitions apply in this section:

27 (1) Affiliated group. – A group that includes a corporation, all other
28 corporations that are affiliates or subsidiaries of that corporation, and all
29 other corporations that are affiliates or subsidiaries of another corporation in
30 the group.

31 (2) Bank holding company. – A holding company with an affiliate that is
32 engaged in the banking business.~~subject to the privilege tax on banks levied~~
33 ~~in G.S. 105-102.3.~~

34 (3) Dividends. – Dividends received that are not taxed under this Part.

35 (4) Electric power holding company. – A holding company with an affiliate or a
36 subsidiary that is engaged in the business of producing electric
37 power.~~subject to the franchise tax on electric power companies levied in~~
38 ~~G.S. 105-116.~~

39 (5) Expense adjustment. – The adjustment required by G.S. 105-130.5(c)(3) for
40 expenses related to dividends not taxed under this Part.

41 (6) Holding company. – Defined in ~~G.S. 105-120.2.~~G.S. 105-114.2."

42 **SECTION 10.(g)** G.S. 105-130.6A(h) reads as rewritten:

43 "(h) Limitation on Credits. – The credits provided in this section are allowed against the
44 tax levied in this Part and the ~~franchise-privilege~~ tax levied in Article 3 of this Chapter. A
45 taxpayer may claim a credit against only one of the taxes against which it is allowed. Each
46 taxpayer must elect the tax against which the credit will be taken when filing the return on
47 which the first installment of the credit is claimed. This election is binding. All installments and
48 carryforwards of the credit must be taken against the same tax.

49 In order for a member of an affiliated group to take a credit, each member of the affiliated
50 group that is required to file a return under this Part or under Article 3 of this Chapter must
51 attach a schedule to its return that shows for every member of the group the amount of the

1 credit taken by it, the tax against which it is taken, and the amount of the resulting tax. In
2 addition, each member must provide any other documentation required by the Secretary.

3 A credit allowed in this section may not exceed the amount of tax against which it is taken
4 for the taxable year reduced by the sum of all credits allowable, except tax payments made by
5 or on behalf of the taxpayer. Any unused portion of the credit may be carried forward to
6 succeeding taxable years."

7 **SECTION 10.(h)** G.S. 105-130.9(4) is repealed.

8 **SECTION 10.(i)** G.S. 105-230 reads as rewritten:

9 "**§ 105-230. ~~Charter suspended for failure to report.~~Suspension of business entity's right**
10 **to do business for noncompliance.**

11 (a) Suspension. – ~~If a corporation or a limited liability company fails to file any Failure~~
12 of a business entity, as defined in G.S. 105-114.2, to file a report or return or to pay any a tax or
13 fee required by this Subchapter for 90 days after it is due, the Secretary shall inform the
14 Secretary of State of this failure. The Secretary of State shall due is grounds to suspend the
15 business entity's articles of incorporation, articles of organization, or certificate of authority, as
16 appropriate, of the corporation or limited liability company. The Secretary of State shall
17 immediately notify by mail every domestic or foreign corporation or limited liability company
18 so suspended of its suspension, or certificate of registration, as appropriate. The Secretary must
19 notify the Secretary of State when a business entity's authority to transact business is subject to
20 suspension. The Secretary of State must then immediately suspend the business entity's articles
21 of incorporation or other authority to transact business and must notify the business entity by
22 mail of the suspension. The powers, privileges, and franchises conferred upon the corporation
23 or limited liability company by the articles of incorporation, the articles of organization, or the
24 certificate of authority business entity by its articles of incorporation or other authority to
25 transact business terminate upon suspension.

26 (b) Effect. – Any act performed or attempted to be performed during the period of
27 suspension the business entity's authority to transact business is suspended under this section is
28 invalid and of no effect, unless the Secretary of State reinstates the corporation or limited
29 liability company business entity's authority pursuant to G.S. 105-232."

30 **SECTION 10.(j)** G.S. 105-232 reads as rewritten:

31 "**§ 105-232. ~~Rights restored; receivership and liquidation.~~Procedure for reinstatement**
32 **after suspension of business entity's authority to do business for**
33 **noncompliance.**

34 (a) ~~Any corporation or limited liability company whose articles of incorporation,~~
35 ~~articles of organization, or certificate of authority to do business in this State has been~~
36 ~~suspended by the Secretary of State under G.S. 105-230, that complies with all the~~
37 ~~requirements of this Subchapter and pays all State taxes, fees, or penalties due from it (which~~
38 ~~total amount due may be computed, for years prior and subsequent to the suspension, in the~~
39 ~~same manner as if the suspension had not taken place), and pays to the Secretary of Revenue a~~
40 ~~fee of twenty five dollars (\$25.00) to cover the cost of reinstatement, is entitled to exercise~~
41 ~~again its rights, privileges, and franchises in this State. The Secretary of Revenue shall notify~~
42 ~~the Secretary of State of this compliance and the Secretary of State shall reinstate the~~
43 ~~corporation or limited liability company by appropriate entry upon the records of the office of~~
44 ~~the Secretary of State. Upon entry of reinstatement, it relates back to and takes effect as of the~~
45 ~~date of the suspension by the Secretary of State and the corporation or limited liability~~
46 ~~company resumes carrying on its business as if the suspension had never occurred, subject to~~
47 ~~the rights of any person who reasonably relied, to that person's prejudice, upon the suspension.~~
48 ~~The Secretary of State shall immediately notify by mail the corporation or limited liability~~
49 ~~company of the reinstatement. The suspension under G.S. 105-230 of the authority of a business~~
50 ~~entity to transact business terminates when the business entity resolves the noncompliance that~~
51 ~~resulted in the suspension and pays a reinstatement fee of fifty dollars (\$50.00) to the Secretary~~

1 of Revenue. The Secretary of Revenue must notify the Secretary of State when a business
2 entity whose authority is suspended resolves the noncompliance. The Secretary of State must
3 then immediately reinstate the business entity's authority and must notify the business entity by
4 mail of the reinstatement. Reinstatement of a business entity's authority to do business relates
5 back to and takes effect as of the date of the suspension, subject to the rights of a person who
6 reasonably relied to that person's prejudice on the suspension.

7 ~~(b) When the articles of incorporation, articles of organization, or certificate of~~
8 ~~authority to do business in this State has been suspended by the Secretary of State under~~
9 ~~G.S. 105-230, and the corporation or limited liability company has ceased to operate as a going~~
10 ~~concern, if there remains property held in the name of the corporation or limited liability~~
11 ~~company or undisposed of at the time of the suspension, or there remain future interests that~~
12 ~~may accrue to the corporation, the limited liability company, or its successors, members, or~~
13 ~~stockholders, any interested party may apply to the superior court for the appointment of a~~
14 ~~receiver. Application for the receiver may be made in a civil action to which all stockholders,~~
15 ~~members, or their representatives or next of kin shall be made parties. Stockholders or members~~
16 ~~whose whereabouts are unknown, unknown stockholders or members, unknown heirs and next~~
17 ~~of kin of deceased stockholders, members, creditors, dealers, and other interested persons may~~
18 ~~be served by publication. A guardian ad litem may be appointed for any stockholders,~~
19 ~~members, or their representatives who are infants or incompetent. The receiver shall enter into~~
20 ~~a bond if the court requires one and shall give notice to creditors by publication or otherwise as~~
21 ~~the court may prescribe. Any creditor who fails to file a claim with the receiver within the time~~
22 ~~set shall be barred of the right to participate in the distribution of the assets. The receiver may~~
23 ~~(i) sell the property interests of the corporation or limited liability company upon such terms~~
24 ~~and in such manner as the court may order, (ii) apply the proceeds to the payment of any debts~~
25 ~~of the corporation or limited liability company, and (iii) distribute the remainder among the~~
26 ~~stockholders, the members, or their representatives in proportion to their interests in the~~
27 ~~property interests. Shares due to any stockholder or member who is unknown or whose~~
28 ~~whereabouts are unknown shall be paid into the office of the clerk of the superior court, to be~~
29 ~~disbursed according to law. In the event the records of the corporation or limited liability~~
30 ~~company are lost or do not reflect the owners of the property interests, the court shall determine~~
31 ~~the owners from the best evidence available, and the receiver shall be protected in acting in~~
32 ~~accordance with the court's finding. This proceeding is authorized for the sole purpose of~~
33 ~~providing a procedure for disposing of the assets of the corporation or limited liability company~~
34 ~~by the payment of its debts and by the transfer to its stockholders, its members, or their~~
35 ~~representatives their proportionate shares of its assets."~~

36 **SECTION 10.(k)** G.S. 105-259(b)(24), (37), and (38) are repealed.

37 **SECTION 10.(l)** G.S. 105-269.13 is repealed.

38 **SECTION 10.(m)** Article 10 of Chapter 143B of the General Statutes is amended
39 by adding a new section to read:

40 **"§ 143B-437.08A. Wage, health insurance, and other standards applicable to economic**
41 **development incentives.**

42 (a) Wage. – The Department must annually determine the average weekly wage for a
43 calendar year for all insured private employers in each county and in the State and must publish
44 the following wage standards applicable to economic development incentives:

45 (1) General wage standard. – A job meets the general wage standard if it pays an
46 average weekly wage that is at least equal to the lesser of one hundred ten
47 percent (110%) of the average wage for all insured private employers in the
48 State and ninety percent (90%) of the average wage for all insured private
49 employers in the county.

50 (2) Zone wage standard. – A job that is located within an urban progress zone or
51 an agrarian growth zone in a development tier two or tier three area satisfies

1 the wage standard if it pays an average weekly wage that is at least equal to
2 ninety percent (90%) of the lesser of the average wage for all insured private
3 employers in the State and the average wage for all insured private
4 employers in the county.

5 (3) Calculation. – In determining whether an employer meets a wage standard,
6 the employer may include only full-time jobs and must include any jobs that
7 were filled for at least 1,600 hours during the calendar year even if the jobs
8 are not filled at the time the employer applies for or claims an economic
9 incentive benefit. An employer whose taxable year is not a calendar year
10 must use the wage standard for the calendar year in which the taxable year
11 begins. A full-time job is a position that requires at least 1,600 hours of work
12 per year and is intended to be held by one employee during the entire year. A
13 full-time employee is an employee who holds a full-time job.

14 (b) Health Insurance. – An employer meets the health insurance standard if the
15 employer does all of the following:

16 (1) Provides health insurance for all of its full-time jobs. A full-time job is a
17 position that requires at least 1,600 hours of work per year and is intended to
18 be held by one employee during the entire year.

19 (2) Pays at least fifty percent (50%) of the premiums for health care coverage
20 that equals or exceeds the minimum provisions of the basic health care plan
21 of coverage recommended by the Small Employer Carrier Committee
22 pursuant to G.S. 58-50-125.

23 (c) Environmental Impact. – A person meets the environmental standard if the person
24 has no pending administrative, civil, or criminal enforcement action based on alleged
25 significant violations of any program implemented by an agency of the Department of
26 Environment and Natural Resources and has had no final determination of responsibility for
27 any significant administrative, civil, or criminal violation of any program implemented by an
28 agency of the Department of Environment and Natural Resources within the last five years. A
29 significant violation is a violation or alleged violation that does not satisfy any of the conditions
30 of G.S. 143-215.6B(d). The Secretary of Environment and Natural Resources must notify the
31 Department of Commerce and the Department of Revenue annually of every person that
32 currently has any of these pending actions and every person that has had any of these final
33 determinations within the last five years.

34 (d) Employee Safety and Health. – An employer meets the employee safety and health
35 standard if the employer has no citations under the Occupational Safety and Health Act that
36 have become a final order within the past three years for willful serious violations or for failing
37 to abate serious violations. As used in this subsection, the term "serious violation" has the same
38 meaning as in G.S. 95-127. The Commissioner of Labor must notify the Department of
39 Commerce and the Department of Revenue annually of every person that has had these
40 citations become final orders within the past three years."

41 **SECTION 10.(n)** G.S. 143B-437.01(a) and (a1) read as rewritten:

42 "(a) Creation and Purpose of Fund. – There is created in the Department of Commerce
43 the Industrial Development Fund to provide funds to assist the local government units of the
44 most economically distressed counties in the State in creating and retaining jobs in certain
45 industries. The Department of Commerce shall adopt rules providing for the administration of
46 the program. Those rules shall include the following provisions, which shall apply to each grant
47 from the fund:

48 ...
49 (6) The funds shall not be used for any nonmanufacturing project that does not
50 meet the general wage standard set out in
51 G.S. 105-129.4(b).G.S. 143B-437.08A.

1 (a1) Definitions. – The following definitions apply in this section:

2 (1) ~~Air courier services. – Defined in G.S. 105-129.81.~~ The furnishing of air
3 delivery of individually addressed letters and packages for compensation, in
4 interstate commerce, except by the United States Postal Service.

5 (2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.

6 (2a) ~~Company headquarters. – Defined in G.S. 105-129.81.~~ A corporate,
7 subsidiary, or regional managing office, as defined by NAICS in United
8 States industry 551114, that is responsible for strategic or organizational
9 planning and decision making for the business on an international, national,
10 or multistate regional basis.

11 ...

12 (6) ~~Information technology and services. – Defined in G.S. 105-129.81.~~ An
13 industry in one of the following, as defined by NAICS:

14 a. Data processing industry group 518.

15 b. Software publishers industry group 5112.

16 c. Computer systems design and related services industry group 5415.

17 d. An Internet activity included in industry group 519130.

18 ...

19 (8) ~~Manufacturing. – Defined in G.S. 105-129.81.~~ An industry in manufacturing
20 sectors 31 through 33, as defined by NAICS, but not including quick
21 printing or retail bakeries.

22 (9) NAICS. – Defined in G.S. 105-228.90.

23 (10) ~~Warehousing. – Defined in G.S. 105-129.81.~~ An industry in warehousing and
24 storage subsector 493 as defined by NAICS.

25 (11) ~~Wholesale trade. – Defined in G.S. 105-129.81.~~ An industry in wholesale
26 trade sector 42 as defined by NAICS."

27 **SECTION 10.(o)** This section becomes effective January 1, 2014.

29 **PART XI. INDIVIDUAL INCOME TAX CONFORMING CHANGES**

30 **SECTION 11.(a)** G.S. 105-131.2 reads as rewritten:

31 **"§ 105-131.2. Adjustment and characterization of income.**

32 (a) Adjustment. – Each shareholder's pro rata share of an S Corporation's income is
33 subject to the adjustments provided in ~~G.S. 105-134.6.~~ G.S. 105-153.5.

34 (b) Repealed by Session Laws 1989, c. 728, s. 1.35.

35 (c) Characterization of Income. – S Corporation items of income, loss, deduction, and
36 credit taken into account by a shareholder pursuant to G.S. 105-131.1(b) are characterized as
37 though received or incurred by the S Corporation and not its shareholder."

38 **SECTION 11.(b)** G.S. 105-131.5 reads as rewritten:

39 **"§ 105-131.5. Part-year resident shareholder.**

40 If a shareholder of an S Corporation is both a resident and nonresident of this State during
41 any taxable period, the shareholder's pro rata share of the S Corporation's income attributable to
42 the State and income not attributable to the State for the taxable period shall be further prorated
43 between the shareholder's periods of residence and nonresidence, in accordance with the
44 number of days in each period, as provided in ~~G.S. 105-134.5.~~ G.S. 105-153.4."

45 **SECTION 11.(c)** G.S. 105-131.7(c) reads as rewritten:

46 "(c) An S Corporation ~~shall~~ must file with the Department, on a form prescribed by the
47 Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a return
48 and make timely payment of all taxes imposed by this State on the shareholder with respect to
49 the income of the S Corporation, and (ii) to be subject to personal jurisdiction in this State for
50 purposes of the collection of any unpaid income tax, together with related interest and
51 penalties, owed by the nonresident shareholder. If the corporation fails to timely file an

1 agreement required by this subsection on behalf of any of its nonresident shareholders, then the
 2 corporation ~~shall~~must at the time specified in subsection (d) of this section pay to the
 3 Department on behalf of each nonresident shareholder with respect to whom an agreement has
 4 not been timely filed an estimated amount of the tax due the State. The estimated amount of tax
 5 due the State ~~shall be~~is computed at the ~~rates~~rate levied in ~~G.S. 105-134.2(a)(3)~~
 6 G.S. 105-153.7 on the shareholder's pro rata share of the S Corporation's income attributable to
 7 the State reflected on the corporation's return for the taxable period. An S Corporation may
 8 recover a payment made pursuant to the preceding sentence from the shareholder on whose
 9 behalf the payment was made."

10 **SECTION 11.(d)** G.S. 105-131.8(a) reads as rewritten:

11 "(a) For purposes of ~~G.S. 105-151~~G.S. 105-153.9 and G.S. 105-160.4, each resident
 12 shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to
 13 the shareholder's pro rata share of any net income tax paid by the S Corporation to a state that
 14 does not measure the income of S Corporation shareholders by the income of the S
 15 Corporation. For purposes of the preceding sentence, the term "net income tax" means any tax
 16 imposed on or measured by a corporation's net income."

17 **SECTION 11.(e)** G.S. 105-154(d) reads as rewritten:

18 "(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business
 19 conducted in this State is owned by a nonresident individual or by a partnership having one or
 20 more nonresident members, the manager of the business ~~shall~~must report the earnings of the
 21 business in this State, the distributive share of the income of each nonresident owner or partner,
 22 and any other information required by the Secretary. The manager of the business ~~shall~~must
 23 pay with the return the tax on each nonresident owner or partner's share of the income
 24 computed at the rate levied on individuals under ~~G.S. 105-134.2(a)(3)~~G.S. 105-153.7. The
 25 business may deduct the payment for each nonresident owner or partner from the owner or
 26 partner's distributive share of the profits of the business in this State. If the nonresident partner
 27 is not an individual and the partner has executed an affirmation that the partner will pay the tax
 28 with its corporate, partnership, trust, or estate income tax return, the manager of the business is
 29 not required to pay the tax on the partner's share. In this case, the manager ~~shall~~must include a
 30 copy of the affirmation with the report required by this subsection."

31 **SECTION 11.(f)** G.S. 105-159 reads as rewritten:

32 **"§ 105-159. Federal corrections.**

33 If a taxpayer's ~~federal taxable income~~adjusted gross income or federal tax credit is
 34 corrected or otherwise determined by the federal government, the taxpayer must, within six
 35 months after being notified of the correction or final determination by the federal government,
 36 file an income tax return with the Secretary reflecting the corrected or determined ~~taxable~~
 37 incomeadjusted gross income or federal tax credit. The Secretary must propose an assessment
 38 for any additional tax due from the taxpayer as provided in Article 9 of this Chapter. The
 39 Secretary must refund any overpayment of tax as provided in Article 9 of this Chapter. A
 40 taxpayer who fails to comply with this section is subject to the penalties in G.S. 105-236 and
 41 forfeits the right to any refund due by reason of the determination."

42 **SECTION 11.(g)** G.S. 105-163.1 reads as rewritten:

43 **"§ 105-163.1. Definitions.**

44 The following definitions apply in this Article:

45 ...

46 (6) Individual. – Defined in ~~G.S. 105-134.1~~G.S. 105-153.3.

47 ...

48 (13) Wages. – The term has the same meaning as in section 3401 of the Code
 49 except it does not include ~~either of the following~~:

1 a. ~~The amount of severance wages paid to an employee during the~~
2 ~~taxable year that is exempt from State income tax for that taxable~~
3 ~~year under G.S. 105-134.6(b)(11).~~

4 b. ~~The~~ the amount an employer pays an employee as reimbursement for
5 ordinary and necessary expenses incurred by the employee on behalf
6 of the employer and in the furtherance of the business of the
7 employer.

8"

9 **SECTION 11.(h)** G.S. 105-163.22 reads as rewritten:

10 **"§ 105-163.22. Reciprocity.**

11 The Secretary may, with the approval of the Attorney General, enter into agreements with
12 the taxing authorities of states having income tax withholding statutes with such agreements to
13 govern the amounts to be withheld from the wages and salaries of residents of such other state
14 or states under the provisions of this Article when such other state or states grant similar
15 treatment to the residents of this State. ~~Such~~ The agreements may provide for recognition of the
16 anticipated tax credits allowed under the provisions of ~~G.S. 105-151~~ G.S. 105-153.9 in
17 determining the amounts to be withheld."

18 **SECTION 11.(i)** Effective for taxable years beginning on or after January 1, 2014,
19 G.S. 105-259(b)(34) and (36) are repealed.

20 **SECTION 11.(j)** G.S. 105-277.3(d1) reads as rewritten:

21 "(d1) ~~Exception for Easements on Qualified Conservation Lands Previously Appraised at~~
22 ~~Use Value. Exception.~~ – Property that is appraised at its present-use value under
23 G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided
24 in G.S. 105-277.2 through G.S. 105-277.7 as long as (i) ~~the property is subject to an~~
25 ~~enforceable conservation easement that would qualify for the conservation tax credit provided~~
26 ~~in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income~~
27 ~~requirements of this section; and (ii) the taxpayer received no more than seventy five percent~~
28 ~~(75%) of the fair market value of the donated property interest in compensation.~~ the property is
29 subject to a conservation easement that meets the property eligibility requirements under
30 G.S. 113A-232. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the
31 property does not extinguish its present-use value eligibility as long as the property remains
32 subject to an enforceable a qualifying conservation easement that qualifies for the conservation
33 tax credit provided in G.S. 105-130.34 and G.S. 105-151.12. ~~easement.~~ The exception provided
34 in this subsection applies only to that part of the property that is subject to the easement."

35 **SECTION 11.(k)** G.S. 105-309(d) reads as rewritten:

36 "(d) Personal property shall be listed to indicate the township and municipality, if any, in
37 which it is taxable and shall be itemized by the taxpayer in such detail as may be prescribed by
38 an abstract form approved by the Department of Revenue. ~~Personal property shall also be listed~~
39 ~~to indicate which property, if any, is subject to a tax credit under G.S. 105-151.21.~~

40 (1) If the assessor considers it necessary to obtain a complete listing of personal
41 property, the assessor may require a taxpayer to submit additional
42 information, inventories, or itemized lists of personal property.

43 (2) At the request of the assessor, the taxpayer shall furnish any information the
44 taxpayer has with respect to the true value of the personal property the
45 taxpayer is required to list."

46 **SECTION 11.(l)** G.S. 105-320(a)(16) is repealed.

47 **SECTION 11.(m)** G.S. 110-130.1(a) reads as rewritten:

48 "(a) All child support collection and paternity determination services provided under this
49 Article to recipients of public assistance shall be made available to any individual not receiving
50 public assistance in accordance with federal law and as contractually authorized by the
51 nonrecipient, upon proper application and payment of a nonrefundable application fee of

1 twenty-five dollars (\$25.00). The fee shall be reduced to ten dollars (\$10.00) if the individual
2 applying for the services is indigent. An indigent individual is an individual whose gross
3 income does not exceed one hundred percent (100%) of the federal poverty guidelines issued
4 each year in the Federal Register by the U.S. Department of Health and Human Services. For
5 the purposes of this subsection, the term "gross income" has the same meaning as defined in
6 G.S. 105-134.1, section 61 of the Code, and the term "Code" has the same meaning as defined
7 in G.S. 105-228.90.

8 In the case of an individual who has never received assistance under a State program
9 funded pursuant to Title IV-A of the Social Security Act and for whom the State has collected
10 and disbursed to the family in a federal fiscal year at least five hundred dollars (\$500.00) of
11 support, the State shall impose an annual fee of twenty-five dollars (\$25.00) for each case in
12 which services are furnished. The child support agency shall retain the fee from support
13 collected on behalf of the individual. However, the child support agency shall not retain the fee
14 from the first five hundred dollars (\$500.00) collected. The child support agency shall use the
15 fee to support the ongoing operation of the program."

16 **SECTION 11.(n)** G.S. 113-77.9(d) reads as rewritten:

17 "(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341,
18 acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to
19 this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A
20 State agency with management responsibility for land acquired pursuant to this Article may
21 enter into a management agreement or lease with a county, city, town, or private nonprofit
22 organization ~~qualified under G.S. 105-151.12 and G.S. 105-130.34 and~~ certified under section
23 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement
24 or lease shall be executed by the Department of Administration pursuant to G.S. 143-341."

25 **SECTION 11.(o)** G.S. 113A-231 reads as rewritten:

26 "**§ 113A-231. Program to accomplish conservation purposes.**

27 The Department of Environment and Natural Resources shall develop a nonregulatory
28 program ~~that uses conservation tax credits as a prominent tool to~~ accomplish conservation
29 purposes, including the maintenance of ecological systems. As a part of this program, the
30 Department shall exercise its powers to protect real property and interests in real ~~property;~~
31 property donated for tax credit under G.S. 105-130.34 or G.S. 105-151.12; conserved with the
32 use of other financial incentives; or, conserved through nonregulatory programs. conservation
33 or conserved by other means. The Department shall call upon the Attorney General for legal
34 assistance in developing and implementing the program."

35 **SECTION 11.(p)** G.S. 113A-232 reads as rewritten:

36 "**§ 113A-232. Conservation Grant Fund.**

37 (a) Fund Created. – The Conservation Grant Fund is created within the Department of
38 Environment and Natural Resources. The Fund shall be administered by the Department. The
39 purpose of the Fund is to stimulate the use of conservation ~~easements and conservation tax~~
40 ~~credits, easements,~~ to improve the capacity of private nonprofit land trust organizations to
41 successfully accomplish conservation projects, to better equip real estate related professionals
42 to pursue opportunities for conservation, to increase landowner participation in land and water
43 conservation, and to provide an opportunity to leverage private and other public monies for
44 conservation easements.

45 (b) Fund Sources. – The Conservation Grant Fund shall consist of any monies
46 appropriated to it by the General Assembly and any monies received from public or private
47 sources. Unexpended monies in the Fund that were appropriated from the General Fund by the
48 General Assembly shall revert at the end of the fiscal year unless the General Assembly
49 otherwise provides. Unexpended monies in the Fund from other sources shall not revert and
50 shall remain available for expenditure in accordance with this Article.

1 (c) Property Eligibility. – In order for real property or an interest in real property to be
 2 the subject of a grant under this Article, the real property or interest in real property must meet
 3 all of the following conditions:

- 4 (1) ~~possess~~ Possess or have a high potential to possess ecological ~~value, must be~~
 5 value.
- 6 (2) Be reasonably restorable, and must qualify for tax credits under
 7 G.S. 105-130.34 or G.S. 105-151.12 restorable.
- 8 (3) Be useful for one or more of the following purposes:
- 9 a. Public beach access or use.
- 10 b. Public access to public waters or trails.
- 11 c. Fish and wildlife conservation.
- 12 d. Forestland or farmland conservation.
- 13 e. Watershed protection.
- 14 f. Conservation of natural areas as that term is defined in
 15 G.S. 113A-164.3(3).
- 16 g. Conservation of predominantly natural parkland.
- 17 (4) Be donated in perpetuity to and accepted by the State, a local government, or
 18 a body that is both organized to receive and administer lands for
 19 conservation purposes and qualified to receive charitable contributions under
 20 G.S. 105-130.9. Land required to be dedicated pursuant to local
 21 governmental regulation or ordinance and dedications made to increase
 22 building density levels permitted under a regulation or ordinance do not
 23 qualify.

24 (c1) Grant Eligibility. – State conservation land management agencies, local government
 25 conservation land management agencies, and private nonprofit land trust organizations are
 26 eligible to receive grants from the Conservation Grant Fund. Private nonprofit land trust
 27 organizations must be ~~qualified pursuant to G.S. 105-130.34 and G.S. 105-151.12 and must be~~
 28 certified under section 501(c)(3) of the Internal Revenue ~~Code~~ Code to aid in managing the
 29 land.

30 (d) Use of Revenue. – Revenue in the Conservation Grant Fund may be used only for
 31 the following purposes:

- 32 (1) The administrative costs of the Department in administering the Fund.
- 33 (2) Conservation grants made in accordance with this Article.
- 34 (3) To establish an endowment account, the interest from which will be used for
 35 a purpose described in G.S. 113A-233(a)."

36 **SECTION 11.(q)** G.S. 113A-233 reads as rewritten:

37 "**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

38 (a) Allowable Uses. – A grant from the Conservation Grant Fund may be used only to
 39 pay for one or more of the following costs:

- 40 (1) Reimbursement for total or partial transaction costs for a donation of real
 41 property or an interest in real property from an individual or corporation
 42 satisfying either of the following:
- 43 a. Insufficient financial ability to pay all costs or insufficient taxable
 44 income to allow these costs to be included in the donated value.
- 45 b. Insufficient tax burdens to allow these costs to be offset by ~~the value~~
 46 ~~of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by~~
 47 ~~charitable deductions.~~
- 48 (2) Management support, including initial baseline inventory and planning.
- 49 (3) Monitoring compliance with conservation easements, the related use of
 50 riparian buffers, natural areas, and greenways, and the presence of ecological
 51 integrity.

- 1 (4) Education on conservation, including information materials intended for
2 landowners and education for staff and volunteers.
3 (5) Stewardship of land.
4 (6) Transaction costs for recipients, including legal expenses, closing and title
5 costs, and unusual direct costs, such as overnight travel.
6 (7) Administrative costs for short-term growth or for building capacity.
7 (b) Prohibition. – The Fund shall not be used to pay the purchase price of real property
8 or an interest in real property."

9 **SECTION 11.(r)** G.S. 113A-256(g) is repealed.

10 **SECTION 11.(s)** This section becomes effective January 1, 2015.

11
12 **PART XII. SALES TAX CONFORMING CHANGES**

13 **SECTION 12.1.(a)** The following statutes are repealed:

14 G.S. 106-507

15 G.S. 106-516

16 G.S. 106-517

17 G.S. 106-518

18 G.S. 106-519

19 G.S. 106-520

20 G.S. 140-10.1

21 **SECTION 12.1.(b)** G.S. 105-164.9 is repealed.

22 **SECTION 12.1.(c)** G.S. 105-164.10 reads as rewritten:

23 **"§ 105-164.10. Retail bracket system.**

24 For the convenience of the retailer in collecting the tax due under this Article, the Secretary
25 ~~shall~~must prescribe tables that compute the tax due on sales by rounding off the amount of tax
26 due to the nearest whole cent. The Secretary ~~shall~~must issue a separate table for each rate of
27 tax that may apply to a sale, ~~including the general rate established in G.S. 105-164.4,~~
28 ~~preferential rates, and combined State and local rates. Use of the tables prescribed by the~~
29 ~~Secretary does not relieve a retailer of liability for the applicable rate of tax due on the gross~~
30 ~~receipts or net taxable sales of the retailer.sale."~~

31 **SECTION 12.1.(d)** G.S. 105-164.44F(a) reads as rewritten:

32 "(a) Amount. – The Secretary must distribute part of the taxes imposed by
33 ~~G.S. 105-164.4(a)(4e)~~ G.S. 105-164.4 on telecommunications service and ancillary service.
34 The Secretary must make the distribution within 75 days after the end of each calendar quarter.
35 The amount the Secretary must distribute is the following percentages of the net proceeds of
36 the taxes collected during the quarter:

37"

38 **SECTION 12.1.(e)** G.S. 105-164.44I(a) reads as rewritten:

39 "(a) Distribution. – The Secretary must distribute to the counties and cities part of the
40 taxes imposed by ~~G.S. 105-164.4(a)(4e)~~ G.S. 105-164.4 on telecommunications service and
41 ~~G.S. 105-164.4(a)(6)~~ on video programming service. The Secretary must make the distribution
42 within 75 days after the end of each calendar quarter. The amount the Secretary must distribute
43 is the sum of the revenue listed in this subsection. The Secretary must distribute two million
44 dollars (\$2,000,000) of this amount in accordance with subsection (b) of this section and the
45 remainder in accordance with subsections (c) and (d) of this section. The revenue to be
46 distributed under this section consists of the following:

47"

48 **SECTION 12.1.(f)** G.S. 105-449.106(c) reads as rewritten:

49 "(c) Special Mobile Equipment. – A person who purchases and uses motor fuel to
50 operate special mobile equipment off-highway may receive a quarterly refund, for the excise
51 tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the

1 variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less
2 the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter, as
3 determined in accordance with G.S. 105-449.107(c). An application for a refund must be made
4 in accordance with this Part."

5 **SECTION 12.1.(g)** G.S. 105-449.107 reads as rewritten:

6 "**§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles with**
7 **power attachments.**

8 (a) Off-Highway. – A person who purchases and uses motor fuel for a purpose other
9 than to operate a licensed highway vehicle may receive an annual refund for the excise tax the
10 person paid on fuel used during the preceding calendar year. The amount of refund allowed is
11 the amount of the flat cents-per-gallon rate in effect during the year for which the refund is
12 claimed plus the average of the two variable cents-per-gallon rates in effect during that year,
13 less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter. An
14 application for a refund allowed under this section must be made in accordance with this Part.

15 (b) Certain Vehicles. – A person who purchases and uses motor fuel in one of the
16 vehicles listed below may receive an annual refund for the amount of fuel consumed by the
17 vehicle:

- 18 (1) A concrete mixing vehicle.
- 19 (2) A solid waste compacting vehicle.
- 20 (3) A bulk feed vehicle that delivers feed to poultry or livestock and uses a
21 power takeoff to unload the feed.
- 22 (4) A vehicle that delivers lime or fertilizer in bulk to farms and uses a power
23 takeoff to unload the lime or fertilizer.
- 24 (5) A tank wagon that delivers alternative fuel, as defined in G.S. 105-449.130,
25 or motor fuel or another type of liquid fuel into storage tanks and uses a
26 power takeoff to make the delivery.
- 27 (6) A commercial vehicle that delivers and spreads mulch, soils, composts, sand,
28 sawdust, and similar materials and that uses a power takeoff to unload, blow,
29 and spread the materials.
- 30 (7) A commercial vehicle that uses a power takeoff to remove and dispose of
31 septage and for which an annual fee is required to be paid to the Department
32 of Environment and Natural Resources under G.S. 130A-291.1.
- 33 (8) A sweeper.

34 The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the
35 following: the sum of the flat cents-per-gallon rate in effect during the year for which the
36 refund is claimed and the average of the two variable cents-per-gallon rates in effect during that
37 year, less the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter.
38 An application for a refund allowed under this section must be made in accordance with this
39 Part. This refund is allowed for the amount of fuel consumed by the vehicle in its mixing,
40 compacting, or unloading operations, as distinguished from propelling the vehicle, which
41 amount is considered to be one-third of the amount of fuel consumed by the vehicle.

42 (c) Sales Tax Amount. – Article 5 of this Chapter determines the amount of sales and
43 use tax to be deducted under this section from a motor fuel excise tax refund. ~~Article 5F of this~~
44 ~~Chapter determines the amount of privilege tax to be deducted under this section from a motor~~
45 ~~fuel excise tax refund.~~ The sales price and the cost price of motor fuel to be used in determining
46 the amount to deduct is the average of the wholesale prices used under G.S. 105-449.80 to
47 determine the excise tax rates in effect for the two six-month periods of the year for which the
48 refund is claimed."

49 **SECTION 12.1.(h)** This section becomes effective January 1, 2014. Subsections
50 (f) and (g) of this section apply to a claim for refund of taxes paid on motor fuel on or after
51 January 1, 2014.

1 **SECTION 12.2.(a)** G.S. 105-164.14(c) reads as rewritten:

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

14 This subsection applies only to the following governmental entities:

15 "

16 **SECTION 12.2.(b)** This section becomes effective January 1, 2014.

17 18 **PART XIII. LOCAL GOVERNMENT DISTRIBUTION CONFORMING CHANGES**

19 **SECTION 13.(a)** G.S. 153A-134 reads as rewritten:

20 **"§ 153A-134. Regulating and licensing businesses, trades, etc.**

21 A county may by ordinance, subject to the general law of the State, regulate and license
22 occupations, businesses, trades, professions, and forms of amusement or entertainment and
23 prohibit those that may be inimical to the public health, welfare, safety, order, or convenience.
24 In licensing trades, occupations, and professions, the county may, consistent with the general
25 law of the State, require applicants for licenses to be examined and charge a reasonable fee
26 ~~therefor.~~ for the examination. ~~This~~

27 This section does not authorize a county to ~~examine~~ do any of the following:

- 28 (1) Examine or license a person holding a license issued by an occupational
29 licensing board of this State as to the profession or trade ~~that he~~ the person
30 has been licensed to practice or pursue by the State.
31 (2) Levy a privilege license tax on an entity that is subject to regulation and
32 license under this section.

33 ~~This section does not impair the county's power to levy privilege license taxes on~~
34 ~~occupations, businesses, trades, professions, and other activities pursuant to G.S. 153A-152."~~

35 **SECTION 13.(b)** The catch line to G.S. 153A-156 reads as rewritten:

36 **"§ 153A-156. ~~Gross receipts tax on short-term leases or rentals.~~ Motor vehicle gross**
37 **receipts tax in lieu of property tax."**

38 **SECTION 13.(c)** G.S. 153A-156(a) reads as rewritten:

39 "(a) ~~As a substitute for and in replacement of the ad valorem tax, which is excluded by~~
40 ~~G.S. 105-275(42), a~~ A county may levy a gross receipts tax on the gross receipts from the
41 short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed
42 one and one-half percent (1.5%) of the gross receipts from ~~such~~ the short-term leases or rentals.
43 Motor vehicles subject to this tax are exempt from property tax under G.S. 105-275, and this
44 tax provides an alternative to the property tax on the motor vehicles."

45 **SECTION 13.(d)** G.S. 160A-194 reads as rewritten:

46 **"§ 160A-194. Regulating and licensing businesses, trades, etc.**

47 A city may by ordinance, subject to the general law of the State, regulate and license
48 occupations, businesses, trades, professions, and forms of amusement or entertainment and
49 prohibit those that may be inimical to the public health, welfare, safety, order, or convenience.
50 In licensing trades, occupations, and professions, the city may, consistent with the general law
51 of the State, require applicants for licenses to be examined and charge a reasonable fee ~~therefor.~~

1 ~~for the examination. Nothing in this section shall impair the city's power to levy privilege~~
2 ~~license taxes on occupations, businesses, trades, professions, and other activities pursuant to~~
3 ~~G.S. 160A-211.~~

4 ~~Nothing in this section shall~~ This section does not authorize a city to examine ~~do any of the~~
5 following:

6 (1) Examine or license a person holding a license issued by an occupational
7 licensing board of this State as to the profession or trade ~~that he~~ the person
8 has been licensed to practice or pursue by the State.

9 (2) Levy a privilege license tax on an entity that is subject to regulation and
10 license under this section."

11 **SECTION 13.(e)** The catch line to G.S. 160A-215.1 reads as rewritten:

12 "**§ 160A-215.1. ~~Gross receipts tax on short-term leases or rentals.~~ Motor vehicle gross**
13 **receipts tax in lieu of property tax.**"

14 **SECTION 13.(f)** G.S. 160A-215.1(a) reads as rewritten:

15 "(a) ~~As a substitute for and in replacement of the ad valorem tax, which is excluded by~~
16 ~~G.S. 105-275(42), a~~ A city may levy a gross receipts tax on the gross receipts from the
17 short-term lease or rental of vehicles at retail to the general public. The tax rate shall not exceed
18 one and one-half percent (1.5%) of the gross receipts from ~~such~~ the short-term leases or rentals.
19 ~~This tax on gross receipts is in addition to the privilege taxes authorized by~~
20 ~~G.S. 160A-211.~~ Motor vehicles subject to this tax are exempt from property tax under
21 G.S. 105-275, and this tax provides an alternative to the property tax on the motor vehicles."

22 **SECTION 13.(g)** This section becomes effective July 1, 2014.

23 24 **PART XIV. EFFECTIVE DATE**

25 **SECTION 14.** Except as otherwise provided, this act is effective when it becomes
26 law.