

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2015

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HOUSE BILL 117  
Committee Substitute Favorable 3/3/15  
Committee Substitute #2 Favorable 3/3/15  
Fourth Edition Engrossed 3/5/15  
Senate Finance Committee Substitute Adopted 8/6/15  
Sixth Edition Engrossed 8/11/15

Short Title: NC Competes Act.

(Public)

Sponsors:

Referred to:

February 27, 2015

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENACT THE NORTH CAROLINA COMPETES ACT.  
3 The General Assembly of North Carolina enacts:

4  
5 **PART I. JDIG MODIFICATIONS**

6 **SECTION 1.(a)** G.S. 143B-437.51 is amended by adding a new subdivision to  
7 read:

8 **"§ 143B-437.51. Definitions.**

9 The following definitions apply in this Part:

- 10 (1) Agreement. – A community economic development agreement under  
11 G.S. 143B-437.57.  
12 (2) Base period. – The period of time set by the Committee during which new  
13 employees are to be hired for the positions on which the grant is based.  
14 (3) Business. – A corporation, sole proprietorship, cooperative association,  
15 partnership, S corporation, limited liability company, nonprofit corporation,  
16 or other form of business organization, located either within or outside this  
17 State.  
18 (4) Committee. – The Economic Investment Committee established pursuant to  
19 G.S. 143B-437.54.  
20 (4a) Development tier. – The classification assigned to an area pursuant to  
21 G.S. 143B-437.08.  
22 (5) Eligible position. – A position created by a business and filled by a new  
23 full-time employee in this State during the base period.  
24 (6) Full-time employee. – A person who is employed for consideration for at  
25 least 35 hours a week, whose wages are subject to withholding under Article  
26 4A of Chapter 105 of the General Statutes, and who is determined by the  
27 Committee to be employed in a permanent position according to criteria it  
28 develops in consultation with the Attorney General. The term does not  
29 include any person who works as an independent contractor or on a  
30 consulting basis for the business.



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1           (6a) High-yield project. – A project for which the agreement requires that a  
2           business invest at least five hundred million dollars (\$500,000,000) in  
3           private funds and create at least 1,750 eligible positions.

4           (7) New employee. – A full-time employee who represents a net increase in the  
5           number of the business's employees statewide.

6           (8) Overdue tax debt. – Defined in G.S. 105-243.1.

7           (9) Related member. – Defined in G.S. 105-130.7A.

8           (10) Withholdings. – The amount withheld by a business from the wages of  
9           employees in eligible positions under Article 4A of Chapter 105 of the  
10           General Statutes."

11           **SECTION 1.(b)** G.S. 143B-437.52 reads as rewritten:

12           **"§ 143B-437.52. Job Development Investment Grant Program.**

13           (a) Program. – There is established the Job Development Investment Grant Program to  
14           be administered by the Economic Investment Committee. In order to foster job creation and  
15           investment in the economy of this State, the Committee may enter into agreements with  
16           businesses to provide grants in accordance with the provisions of this Part. The Committee, in  
17           consultation with the Attorney General, shall develop criteria to be used in determining whether  
18           the conditions of this section are satisfied and whether the project described in the application  
19           is otherwise consistent with the purposes of this Part. Before entering into an agreement, the  
20           Committee must find that all the following conditions are met:

21           (1) The project proposed by the business will create, during the term of the  
22           agreement, a net increase in employment in this State by the business.

23           (2) The project will benefit the people of this State by increasing opportunities  
24           for employment and by strengthening this State's economy by, for example,  
25           providing worker training opportunities, constructing and enhancing critical  
26           infrastructure, increasing development in strategically important industries,  
27           or increasing the State and local tax base.

28           (3) The project is consistent with economic development goals for the State and  
29           for the area where it will be located.

30           (4) A grant under this Part is necessary for the completion of the project in this  
31           State.

32           (5) The total benefits of the project to the State outweigh its costs and render the  
33           grant appropriate for the project.

34           (6) For a project located in a development tier three area, the affected local  
35           governments have participated in recruitment and offered incentives in a  
36           manner appropriate to the project.

37           (b) Priority. – In selecting between applicants, a project that is located in an  
38           Eco-Industrial Park certified under G.S. 143B-437.08 has priority over a comparable project  
39           that is not located in a certified Eco-Industrial Park.

40           (c) ~~Awards.~~ Award Limitations. – The following limitations apply to grants awarded  
41           under this Part:

42           (1) Maximum liability. – The maximum amount of total annual liability for  
43           grants awarded in any single calendar year under this Part, including  
44           amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is  
45           ~~fifteen~~ ~~twenty~~ million dollars (~~\$15,000,000~~). (~~\$20,000,000~~) for a year in  
46           which no grants are awarded for a high-yield project and is thirty-five  
47           million dollars (\$35,000,000) for a year in which a grant is awarded for a  
48           high-yield project. No agreement may be entered into that, when considered  
49           together with other existing agreements governing grants awarded during a  
50           single calendar year, could cause the State's potential total annual liability  
51           for grants awarded in a single calendar year to exceed ~~this~~ ~~the~~ applicable

1 amount. The Department shall make every effort to ensure that the average  
 2 percentage of withholdings of eligible positions for grants awarded under  
 3 this Part does not exceed the average of the range provided in  
 4 G.S. 143B-437.56(a).

5 (2) Semiannual commitment limitations. – Of the amount authorized in  
 6 subdivision (1) of this subsection, no more than fifty percent (50%),  
 7 excluding roll-over amounts, may be awarded in any single calendar  
 8 semiannual period. A roll-over amount is any amount from a previous  
 9 semiannual period in the same calendar year that was not awarded as a grant.  
 10 The limitation of this subdivision does not apply to a grant awarded to a  
 11 high-yield project.

12 (d) Measuring Employment. – For the purposes of subdivision (a)(1) of this section and  
 13 G.S. 143B-437.51(5), 143B-437.51(7), and 143B-437.57(a)(11), the Committee may designate  
 14 that the increase or maintenance of employment is measured at the level of a division or  
 15 another operating unit of a business, rather than at the business level, if both of the following  
 16 conditions are met:

- 17 (1) The Committee makes an explicit finding that the designation is necessary to
- 18 secure the project in this State.
- 19 (2) The agreement contains terms to ensure that the business does not create
- 20 eligible positions by transferring or shifting to the project existing positions
- 21 from another project of the business or a related member of the business."

22 **SECTION 1.(c)** G.S. 143B-437.53 reads as rewritten:

23 **"§ 143B-437.53. Eligible projects.**

24 (a) Minimum Number of Eligible Positions. – A business may apply to the Committee  
 25 for a grant for any project that creates the minimum number of eligible positions as set out in  
 26 the table below. If the project will be located in more than one development tier area, the  
 27 location with the highest development tier area designation determines the minimum number of  
 28 eligible positions that must be created.

| Development Tier Area | Number of Eligible Positions |
|-----------------------|------------------------------|
| Tier One              | 10                           |
| Tier Two              | 20                           |
| Tier Three            | <u>2050</u>                  |

33 "...."

34 **SECTION 1.(d)** G.S. 143B-437.55(c) reads as rewritten:

35 "(c) Annual Reports. – The Committee shall publish a report on the Job Development  
 36 Investment Grant Program on or before April 30 of each year. The Committee shall submit the  
 37 report electronically to the House of Representatives Finance Committee, the Senate Finance  
 38 Committee, the House of Representatives Appropriations Subcommittee on Natural and  
 39 Economic Resources, the Senate Appropriations Committee on Natural and Economic  
 40 Resources, and the Fiscal Research Division. The report shall include the following:

- 41 ...
- 42 (11) A listing of all businesses making an application under this Part and an
- 43 explanation of whether each business ultimately located the project in this
- 44 State regardless of whether the business was awarded a grant for the project
- 45 under this Part.

46 (11a) A listing, itemized by development tier, of the number of offers that have  
 47 been calculated, estimated, or extended but were not accepted and the total  
 48 award value of the offers.

49 "...."

50 **SECTION 1.(e)** G.S. 143B-437.56 reads as rewritten:

51 **"§ 143B-437.56. Calculation of minimum and maximum grants; factors considered.**

1 (a) Subject to the ~~limitations provisions~~ of ~~subsection~~ subsections (a1) and (d) of this  
2 section, the amount of the grant awarded in each case shall be a percentage of the withholdings  
3 of eligible ~~positions~~. ~~The percentage shall be no less than ten percent (10%) and no more than~~  
4 ~~seventy five percent (75%) of the withholdings of the eligible~~ positions for a period of years.  
5 The percentage shall be no more than eighty percent (80%) for a development tier one area and  
6 no more than seventy-five percent (75%) for any other area. If the project will be located in  
7 more than one area designation, the location with the highest area designation determines the  
8 maximum percentage to be used. The percentage used to determine the amount of the grant  
9 shall be based on criteria developed by the Committee, in consultation with the Attorney  
10 General, after considering at least the following:

- 11 (1) The number of eligible positions to be created.
- 12 (2) The expected duration of those positions.
- 13 (3) The type of contribution the business can make to the long-term growth of  
14 the State's economy.
- 15 (4) The amount of other financial assistance the project will receive from the  
16 State or local governments.
- 17 (5) The total dollar investment the business is making in the project.
- 18 (6) Whether the project utilizes existing infrastructure and resources in the  
19 community.
- 20 (7) Whether the project is located in a development zone.
- 21 (8) The number of eligible positions that would be filled by residents of a  
22 development zone.
- 23 (9) The extent to which the project will mitigate unemployment in the State and  
24 locality.

25 (a1) Notwithstanding the percentage specified by subsection (a) of this section, if the  
26 project is a high-yield project, the business has met the investment and job creation  
27 requirements, and, for three consecutive years, the business has met all terms of the agreement,  
28 the amount of the grant awarded shall be no more than one hundred percent (100%) of the  
29 withholdings of eligible positions for each consecutive year the business maintains the  
30 minimum job creation requirement and meets all terms of the agreement. A business receiving  
31 an enhanced percentage of the withholdings of eligible positions under this subsection that fails  
32 to maintain the minimum job creation requirement or meet all terms of the agreement will be  
33 disqualified from receiving the enhanced percentage and will have the applicable percentage set  
34 forth in subsection (a) of this section applied in the year in which the failure occurs and all  
35 remaining years of the grant term.

36 (b) The term of the grant shall not exceed ~~12 years starting with the first year a grant~~  
37 ~~payment is made.~~ the duration listed in this subsection. The first grant payment must be made  
38 within six years after the date on which the grant was awarded. The number of years in the base  
39 period for which grant payments may be made shall not exceed five years.

- 40 (1) For high-yield projects in which the business receives the enhanced  
41 percentage pursuant to subsection (a1) of this section, 20 years starting with  
42 the first year a grant payment is made. If a business is disqualified from the  
43 enhanced percentage in one of the first 12 years, the term of the grant shall  
44 not exceed 12 years starting with the first year a grant payment is made. If a  
45 business is disqualified from receiving the enhanced percentage after the  
46 first 12 years, the term of the grant ends in the year the disqualification  
47 occurs.
- 48 (2) For all other projects, 12 years starting with the first year a grant payment is  
49 made.

50 (c) The grant may be based only on eligible positions created during the base period.

1 (d) For any eligible position that is located in a development tier three area,  
2 seventy-five percent (75%) of the annual grant approved for disbursement shall be payable to  
3 the business, and twenty-five percent (25%) shall be payable to the Utility Account pursuant to  
4 G.S. 143B-437.61. For any eligible position that is located in a development tier two area,  
5 ~~eighty-five percent (85%)~~ ninety percent (90%) of the annual grant approved for disbursement  
6 shall be payable to the business, and ~~fifteen percent (15%)~~ ten percent (10%) shall be payable  
7 to the Utility Account pursuant to G.S. 143B-437.61. A position is located in the development  
8 tier area that has been assigned to the county in which the project is located at the time the  
9 application is filed with the Committee. This subsection does not apply to a high-yield project  
10 in years in which the business receives the enhanced percentage pursuant to subsection (a1) of  
11 this section.

12 (e) A business that is receiving any other grant by operation of State law may not  
13 receive an amount as a grant pursuant to this Part that, when combined with any other grants,  
14 exceeds ~~seventy-five percent (75%)~~ the applicable maximum percentage of the withholdings of  
15 the business, as provided in subsections (a) and (a1) of this section, unless the Committee  
16 makes an explicit finding that the additional grant is necessary to secure the project.

17 (f) The amount of a grant associated with any specific eligible position, including any  
18 amount transferred to the Utility Account pursuant to G.S. 143B-437.61, may not exceed six  
19 thousand five hundred dollars (\$6,500) in any year."

20 **SECTION 1.(f)** G.S. 143B-437.57(a) reads as rewritten:

21 "(a) Terms. – Each community economic development agreement shall include at least  
22 the following:

23 ...

24 (10) A provision that requires the business to maintain operations at the project  
25 location or another location approved by the Committee for at least one  
26 hundred fifty percent (150%) of the term of the grant and a provision to  
27 ~~permit require~~ the Committee to recapture all or part an appropriate portion  
28 of the grant at its discretion if the business does not remain at the site for the  
29 required term.

30 (11) A provision that requires the business to maintain employment levels in this  
31 State at the greater of the level of the year immediately preceding the base  
32 period employment on the date of the application or the level of employment  
33 on the date of the award.

34 ...."

35 **SECTION 1.(g)** G.S. 143B-437.62 reads as rewritten:

36 **"§ 143B-437.62. Expiration.**

37 The authority of the Committee to award new grants expires January 1, ~~2016~~ 2019."

38 **SECTION 1.(h)** Section 15.19(a1) of S.L. 2013-360 reads as rewritten:

39 **"SECTION 15.19.(a1)** Notwithstanding G.S. 143B-437.52(c), for the ~~2013-2015 fiscal~~  
40 ~~biennium, period from July 1, 2013, to December 31, 2015,~~ the maximum total liability for  
41 grants awarded, including amounts transferred to the Utility Account pursuant to  
42 G.S. 143B-437.61, is ~~twenty-two million five hundred thousand dollars (\$22,500,000) and, for~~  
43 ~~the period from July 1, 2015, to December 31, 2015, the maximum total liability for grants~~  
44 ~~awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is~~  
45 ~~seven million five hundred thousand dollars (\$7,500,000).~~ thirty-five million dollars  
46 (\$35,000,000) if no grant is awarded for a high-yield project and is fifty million dollars  
47 (\$50,000,000) if a grant is awarded for a high-yield project. No agreement may be entered into  
48 that, when considered together with other existing agreements governing grants awarded during  
49 an applicable time period provided in this subsection, could cause the State's potential total  
50 annual liability for grants awarded in that time period to exceed the designated maximum  
51 amount."

1           **SECTION 1.(i)** The Department of Commerce shall study the factors that have  
2 contributed to the termination of grants awarded pursuant to Part 2G of Article 10 of Chapter  
3 143B of the General Statutes. In conducting the study required by this subsection, the  
4 Department shall examine the efforts of other states that have permitted similar economic  
5 development programs to incent businesses to create jobs for the purpose of determining best  
6 practices for remediating underperformance of participating businesses in order to lower the  
7 incidence of community economic development agreements under G.S. 143B-437.57 ending in  
8 termination. The Department shall submit the report to the House of Representatives Finance  
9 Committee, the Senate Finance Committee, the House of Representatives Committee on  
10 Agriculture and Natural and Economic Resources, the Senate Appropriations Committee on  
11 Natural and Economic Resources, and the Fiscal Research Division no later than March 1,  
12 2016.

13           **SECTION 1.(j)** Subsections (d) and (h) of this section are effective when this act  
14 becomes law. The remainder of this section becomes effective July 1, 2015, and applies to  
15 awards made under Part 2G of Article 10 of Chapter 143B of the General Statutes on or after  
16 that date.

## 17 18 **PART II. ONE NC MODIFICATIONS**

19           **SECTION 2.(a)** G.S. 143B-437.72(c) reads as rewritten:

20           "(c) Local Government Grant Agreement. – An agreement between the State and one or  
21 more local governments shall contain the following provisions:

22           (1) A commitment on the part of the local government to match the funds  
23 allocated by the ~~State~~ State, as provided in this subdivision. A local match  
24 may include cash, fee waivers, in-kind services, the donation of assets, the  
25 provision of infrastructure, or a combination of these.

26           a. For a local government in a development tier one area, as defined in  
27 G.S. 143B-437.08, the State shall provide no more than three dollars  
28 (\$3.00) for every one dollar (\$1.00) provided by the local  
29 government.

30           b. For a local government in a development tier two area, as defined in  
31 G.S. 143B-437.08, the State shall provide no more than two dollars  
32 (\$2.00) for every one dollar (\$1.00) provided by the local  
33 government.

34           c. For a local government in a development tier three area, as defined in  
35 G.S. 143B-437.08, the State shall provide no more than one dollar  
36 (\$1.00) for every one dollar (\$1.00) provided by the local  
37 government.

38           ...."

39           **SECTION 2.(b)** This section is effective when this act becomes law.

## 40 41 **PART III. PHASE-IN SINGLE SALES FACTOR**

42           **SECTION 3.(a)** Effective for taxable years beginning on or after January 1, 2016,  
43 G.S. 105-130.4(i) reads as rewritten:

44           "(i) ~~Apportionable Income.~~ Apportionable Income. – Except as otherwise provided in this section, all  
45 apportionable income of corporations ~~other than public utilities, excluded corporations, and~~  
46 ~~qualified capital intensive corporations~~ shall be apportioned to this State by multiplying the  
47 income by a fraction, the numerator of which is the property factor plus the payroll factor plus  
48 ~~twice three times~~ the sales factor, and the denominator of which is ~~four five.~~ five. If the sales factor  
49 does not exist, the denominator of the fraction is the number of existing factors and if the sales  
50 factor exists but the payroll factor or the property factor does not exist, the denominator of the  
51 fraction is the number of existing factors plus ~~one two.~~ two."

1           **SECTION 3.(b)** Effective for taxable years beginning on or after January 1, 2017,  
2 G.S. 105-130.4(i), as amended by subsection (a) of this section, reads as rewritten:

3           "(i) Apportionable Income. – Except as otherwise provided in this section, all  
4 apportionable income of corporations shall be apportioned to this State by multiplying the  
5 income by a fraction, the numerator of which is the property factor plus the payroll factor plus  
6 ~~three-four~~ times the sales factor, and the denominator of which is ~~five-six~~. If the sales factor  
7 does not exist, the denominator of the fraction is the number of existing factors and if the sales  
8 factor exists but the payroll factor or the property factor does not exist, the denominator of the  
9 fraction is the number of existing factors plus ~~two-three~~."

10           **SECTION 3.(c)** Effective for taxable years beginning on or after January 1, 2018,  
11 G.S. 105-130.4(i), as amended by subsection (b) of this section, reads as rewritten:

12           "(i) Apportionable Income. – Except as otherwise provided in this section, all  
13 apportionable income of corporations shall be apportioned to this State by multiplying the  
14 income by a fraction, the numerator of which is the property factor plus the payroll factor plus  
15 ~~four times the sales factor, and the denominator of which is six. If the sales factor does not~~  
16 ~~exist, the denominator of the fraction is the number of existing factors and if the sales factor~~  
17 ~~exists but the payroll factor or the property factor does not exist, the denominator of the~~  
18 ~~fraction is the number of existing factors plus three.~~the sales factor as determined under  
19 subsection (l) of this section."

20           **SECTION 3.(d)** Effective for taxable years beginning on or after January 1, 2018,  
21 G.S. 105-130.4(a)(4), (a)(6), (j), (k), (r), and (s1) are repealed.

22           **SECTION 3.(e)** Except as otherwise provided, this section is effective when this  
23 act becomes law.

## 24 25 **PART IV. DATACENTER INFRASTRUCTURE ACT**

26           **SECTION 4.(a)** G.S. 105-164.3 reads as rewritten:

### 27 **"§ 105-164.3. Definitions.**

28           The following definitions apply in this Article:

29           ...

30           (33c) Qualifying datacenter. – A datacenter that satisfies each of the following  
31 conditions:

32           a. The datacenter meets the wage standard and health insurance  
33 requirements of G.S. 143B-437.08A.

34           b. The Secretary of Commerce has made a written determination that at  
35 least seventy-five million dollars (\$75,000,000) in private funds has  
36 been or will be invested by one or more owners, users, or tenants of  
37 the datacenter within five years of the date the owner, user, or tenant  
38 of the datacenter makes its first real or tangible property investment  
39 in the datacenter on or after January 1, 2012. Investments in real or  
40 tangible property in the datacenter made prior to January 1, 2012,  
41 may not be included in the investment required by this subdivision.

42           ~~(33a)~~(33d) Real property contractor. – A person that contracts to perform  
43 construction, reconstruction, installation, repair, or any other service with  
44 respect to real property and to furnish tangible personal property to be  
45 installed or applied to real property in connection with the contract and the  
46 labor to install or apply the tangible personal property that becomes part of  
47 real property. The term includes a general contractor, a subcontractor, or a  
48 builder for purposes of G.S. 105-164.4H.

49           ~~(33b)~~(33e) Related member. – Defined in G.S. 105-130.7A.

50           ~~(33e)~~(33f) Remote sale. – A sale of tangible personal property or digital property  
51 ordered by mail, by telephone, via the Internet, or by another similar method,

1 to a purchaser who is in this State at the time the order is remitted, from a  
2 retailer who receives the order in another state and delivers the property or  
3 causes it to be delivered to a person in this State. It is presumed that a  
4 resident of this State who remits an order was in this State at the time the  
5 order was remitted.

6 ...."

7 **SECTION 4.(b)** G.S. 105-164.13 is amended by adding a new subdivision to read:

8 "(55a) Sales of electricity for use at a qualifying datacenter and datacenter support  
9 equipment to be located and used at the qualifying datacenter. As used in  
10 this subdivision, "datacenter support equipment" is property that is  
11 capitalized for tax purposes under the Code and is used for one of the  
12 following purposes:

- 13 a. The provision of a service or function included in the business of an  
14 owner, user, or tenant of the datacenter.  
15 b. The generation, transformation, transmission, distribution, or  
16 management of electricity, including exterior substations, generators,  
17 transformers, unit substations, uninterruptible power supply systems,  
18 batteries, power distribution units, remote power panels, and other  
19 capital equipment used for these purposes.  
20 c. HVAC and mechanical systems, including chillers, cooling towers,  
21 air handlers, pumps, and other capital equipment used for these  
22 purposes.  
23 d. Hardware and software for distributed and mainframe computers and  
24 servers, data storage devices, network connectivity equipment, and  
25 peripheral components and equipment.  
26 e. To provide related computer engineering or computer science  
27 research.

28 If the level of investment required by G.S. 105-164.3(33c) is not timely  
29 made, the exemption provided under this subdivision is forfeited. If the level  
30 of investment required by G.S. 105-164.3(33c) is timely made but any  
31 specific datacenter support equipment is not located and used at the  
32 qualifying datacenter, the exemption provided for such datacenter support  
33 equipment under this subdivision is forfeited. If the level of investment  
34 required by G.S. 105-164.3(33c) is timely made but any portion of electricity  
35 is not used at the qualifying datacenter, the exemption provided for such  
36 electricity under this subdivision is forfeited. A taxpayer that forfeits an  
37 exemption under this subdivision is liable for all past taxes avoided as a  
38 result of the forfeited exemption, computed from the date the taxes would  
39 have been due if the exemption had not been allowed, plus interest at the rate  
40 established under G.S. 105-241.21. If the forfeiture is triggered due to the  
41 lack of a timely investment required by G.S. 105-164.3(33c), interest is  
42 computed from the date the taxes would have been due if the exemption had  
43 not been allowed. For all other forfeitures, interest is computed from the  
44 time as of which the datacenter support equipment or electricity was put to a  
45 disqualifying use. The past taxes and interest are due 30 days after the date  
46 the exemption is forfeited. A taxpayer that fails to pay the past taxes and  
47 interest by the due date is subject to the provisions of G.S. 105-236."

48 **SECTION 4.(c)** This section becomes effective October 1, 2015, and applies to  
49 sales made on or after that date.

50  
51 **PART V. SALES TAX RELATIVE TO AVIATION**



1 SECTION 5.1.(a) G.S. 105-164.3 is amended by adding the following new  
 2 subdivisions to read:

3 **"§ 105-164.3. Definitions.**

4 The following definitions apply in this Article:

- 5 ...  
 6 (1h) Aviation gasoline. – Defined in G.S. 105-449.60.  
 7 ...  
 8 (16b) Jet fuel. – Defined in G.S. 105-449.60.

9 ..."  
 10 SECTION 5.1.(b) G.S. 105-164.4(a) is amended by adding a new subdivision to  
 11 read:

12 "(a) A privilege tax is imposed on a retailer engaged in business in the State at the  
 13 percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The  
 14 general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as  
 15 follows:

- 16 ...  
 17 (15) The combined general rate applies to the gross receipts derived from the sale  
 18 of aviation gasoline and jet fuel."

19 SECTION 5.1.(c) G.S. 105-164.13 is amended by adding a new subdivision to  
 20 read:

21 **"§ 105-164.13. Retail sales and use tax.**

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

- 25 ...  
 26 Motor Fuels Group.  
 27 ...  
 28 (11a) Sales of diesel fuel to railroad companies for use in rolling stock other than  
 29 motor vehicles. The definitions in G.S. 105-333 apply in this subdivision.  
 30 (11b) Sales of aviation gasoline and jet fuel to an interstate air business for use in a  
 31 commercial aircraft. For purposes of this subdivision, the term "commercial  
 32 aircraft" has the same meaning as defined in subdivision (45a) of this  
 33 subsection. This subdivision expires January 1, 2020.

34 ..."  
 35 SECTION 5.1.(d) Part 8 of Article V of Chapter 105 of the General Statutes is  
 36 amended by adding a new section to read:

37 **"§ 105-164.44M. Transfer to Division of Aviation.**

38 The net proceeds of the tax collected on aviation gasoline and jet fuel under G.S. 105-164.4  
 39 must be transferred within 75 days after the end of each fiscal year to the Highway Fund. This  
 40 amount is annually appropriated from the Highway Fund to the Division of Aviation of the  
 41 Department of Transportation for prioritized capital improvements to public airports and  
 42 time-sensitive aviation capital improvement projects for economic development purposes."

43 SECTION 5.1.(f) This section becomes effective January 1, 2016, and applies to  
 44 sales made on or after that date.

45 SECTION 5.2.(a) G.S. 105-164.3, as amended by Section 4 of this act, is amended  
 46 by adding the following new subdivisions to read:

47 **"§ 105-164.3. Definitions.**

48 The following definitions apply in this Article:

- 49 ...  
 50 (33a) Qualified aircraft. – An aircraft with a maximum take-off weight of more  
 51 than 9,000 pounds but not in excess of 15,000 pounds.

1           (33b) Qualified jet engine. – An engine certified pursuant to Part 33 of Title 14 of  
 2           the Code of Federal Regulations.

3           ...."

4           **SECTION 5.2.(b)** G.S. 105-164.4(a) reads as rewritten:

5           "**§ 105-164.4. Tax imposed on retailers.**

6           (a) A privilege tax is imposed on a retailer engaged in business in the State at the  
 7           percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The  
 8           general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as  
 9           follows:

10          (1a) ~~The general rate applies to the sales price of each manufactured home of the~~  
 11          ~~following items sold at retail, including all accessories attached to the~~  
 12          ~~manufactured home the item when it is delivered to the purchaser-purchaser:~~

13          a. A manufactured home.

14          b. A modular home. The sale of a modular home to a modular  
 15          homebuilder is considered a retail sale. A person who sells a modular  
 16          home at retail is allowed a credit against the tax imposed by this  
 17          subdivision for sales or use tax paid to another state on tangible  
 18          personal property incorporated in the modular home. The retail sale  
 19          of a modular home occurs when a modular home manufacturer sells  
 20          a modular home to a modular homebuilder or directly to the end user  
 21          of the modular home.

22          c. A boat, except that the maximum tax on a boat is one thousand five  
 23          hundred dollars (\$1,500) per article.

24          d. An aircraft, except that the maximum tax on these items is two  
 25          thousand five hundred dollars (\$2,500) per article.

26          e. A qualified jet engine.

27          (1b) ~~The rate of three percent (3%) applies to the sales price of each aircraft or~~  
 28          ~~boat sold at retail, including all accessories attached to the item when it is~~  
 29          ~~delivered to the purchaser. The maximum tax is one thousand five hundred~~  
 30          ~~dollars (\$1,500) per article.~~

31          ...

32          (8) ~~The general rate applies to the sales price of each modular home sold at~~  
 33          ~~retail, including all accessories attached to the modular home when it is~~  
 34          ~~delivered to the purchaser. The sale of a modular home to a modular~~  
 35          ~~homebuilder is considered a retail sale. A person who sells a modular home~~  
 36          ~~at retail is allowed a credit against the tax imposed by this subdivision for~~  
 37          ~~sales or use tax paid to another state on tangible personal property~~  
 38          ~~incorporated in the modular home. The retail sale of a modular home occurs~~  
 39          ~~when a modular home manufacturer sells a modular home to a modular~~  
 40          ~~homebuilder or directly to the end user of the modular home.~~

41          ...."

42          **SECTION 5.2.(c)** G.S. 105-164.4I(b) is amended by adding a new subdivision to

43          read:

44          "(b) Exemptions. – The tax imposed by this section does not apply to the sales price of  
 45          or the gross receipts derived from a service contract applicable to any of the following items:

46          (1) An item exempt from tax under this Article, other than a motor vehicle  
 47          exempt from tax under G.S. 105-164.13(32).

48          (2) A transmission, distribution, or other network asset contained on  
 49          utility-owned land, right-of-way, or easement.

50          (3) An item purchased by a professional motorsports racing team for which the  
 51          team may receive a sales tax refund under G.S. 105-164.14A(5).

1 (4) An item subject to tax under Article 5F of Chapter 105 of the General  
2 Statutes.

3 (5) A qualified aircraft or a qualified jet engine."

4 **SECTION 5.2.(d)** G.S. 105-164.13 is amended by adding a new subdivision to  
5 read:

6 "**§ 105-164.13. Retail sales and use tax.**

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

10 ...

11 (45d) Parts and accessories for use in the repair or maintenance of a qualified  
12 aircraft or a qualified jet engine.

13 ...."

14 **SECTION 5.2.(e)** G.S. 105-164.27A is amended by adding a new subsection to  
15 read:

16 "(a2) Qualified Jet Engine. – A person who purchases a qualified jet engine may apply to  
17 the Secretary for a direct pay permit for the purchase of a qualified jet engine. A direct pay  
18 permit issued for a qualified jet engine does not apply to any purchase other than the purchase  
19 of a qualified jet engine. The maximum use tax on a qualified jet engine is two thousand five  
20 hundred dollars (\$2,500). A person who purchases a qualified jet engine under a direct pay  
21 permit must file a return and pay the tax due monthly to the Secretary."

22 **SECTION 5.2.(f)** G.S. 105-467(a) reads as rewritten:

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

25 (1) A retailer's net taxable sales and gross receipts that are subject to the general  
26 rate of sales tax imposed by the State under G.S. 105-164.4 except the tax  
27 does not apply to the sales price of ~~a manufactured home or a modular~~  
28 ~~home~~ an item taxable under G.S. 105-164.4(a)(1a)."

29 **SECTION 5.2.(g)** This section becomes effective October 1, 2015, and applies to  
30 sales made on or after that date.

## 31 32 **PART VI. FAIR DISTRIBUTION OF SALES TAX REVENUE TO LOCAL** 33 **GOVERNMENTS**

34 **SECTION 6.(a)** Section 9 of Chapter 1096 of the 1967 Session Laws, as amended,  
35 reads as rewritten:

36 "Sec. 9. Distribution. The Secretary of Revenue must ~~divide~~ allocate the net proceeds of the  
37 tax collected under this division on items other than food in accordance with G.S. 105-472(a) in  
38 the First One Cent (1¢) Local Government Sales and Use Tax Act, Article 39 of Chapter 105 of  
39 the General Statutes. The Secretary must divide the amount allocated to Mecklenburg County  
40 and its municipalities in accordance with the ad valorem distribution method described in  
41 G.S. 105-472(b)(2). The Secretary of Revenue must distribute the taxes levied by Mecklenburg  
42 County on food to Mecklenburg County and the municipalities within Mecklenburg County in  
43 accordance with G.S. 105-469(a). This amount shall be divided between the county and its  
44 municipalities in accordance with the ad valorem distribution method described in  
45 G.S. 105-472(b)(2). The net proceeds from the tax levied under this section and distributed to  
46 Mecklenburg County must be used as provided in G.S. 105-472(a1).

47 The Secretary of Revenue must reduce the amount distributable to Mecklenburg County  
48 under this section by the amount set in G.S. 105-522. This reduction does not affect the amount  
49 allocated to municipalities under this section."

50 **SECTION 6.(b)** G.S. 105-469(a) reads as rewritten:

"(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The Secretary must, on a monthly basis, distribute local taxes levied on food to the taxing counties ~~as follows:~~in accordance with G.S. 105-472(a). The net proceeds of the local taxes on food distributed to counties must be used by the taxing counties as provided in G.S. 105-472(a1).

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

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

**SECTION 6.(c)** G.S. 105-472 reads as rewritten:

**"§ 105-472. ~~Disposition and distribution~~ Allocation, distribution, and use of taxes collected.**

(a) County Allocation. – The Secretary shall, on a monthly basis, allocate the net proceeds of the tax collected under this Article to each taxing county ~~for which the Secretary collects the tax the net proceeds of the tax collected in that county under this Article. For the purpose of this section, "net proceeds" means the gross proceeds of the tax collected in each county under this Article less taxes refunded, the cost to the State of collecting and administering the tax in the county as determined by the Secretary, and other deductions that may be charged to the county. as follows:~~

(1) Point of collection. – One-half to the taxing counties according to where the tax is collected. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article during that month and shall include them in the monthly distribution. Amounts collected by electronic funds transfer payments are included in the distribution for the month in which the return that applies to the payment is received.

(2) Per capita. – One-half to the taxing counties according to the most recent annual population estimates certified to the Secretary by the State Budget Office.

(a1) Use. – The net proceeds of the revenue received by a county from the per capita allocation must be used by the county for public education and community college purposes. The remaining net proceeds received by a county may be used for any public purpose.

...

(c) ~~Municipality Defined.~~ Definitions. – As used in this Article, the following definitions apply:

- 1           (1) ~~term "municipality" means "city" as~~ Municipality. – The same meaning as  
 2           the term "city" defined in G.S. 153A-1.  
 3           (2) Net proceeds. – The gross proceeds of the tax collected in each county under  
 4           this Article less taxes refunded, the cost to the State of collecting and  
 5           administering the tax in the county as determined by the Secretary, and other  
 6           deductions that may be charged to the county.  
 7           ...."

8           **SECTION 6.(d)** G.S. 105-486 reads as rewritten:  
 9           **"§ 105-486. Distribution and use of additional taxes.**

10          (a) ~~County Allocation.—Allocation and Use. –~~ The Secretary shall, on a monthly basis,  
 11          allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied  
 12          under this Article to the taxing counties ~~on a per capita basis according to the most recent~~  
 13          ~~annual population estimates certified to the Secretary by the State Budget Officer.~~ in accordance  
 14          with G.S. 105-472(a). The net proceeds of the tax revenue received by a county under this  
 15          Article must be used as provided in G.S. 105-472(a1).

16          (b) ~~Adjustment.—The Secretary shall then adjust the amount allocated to each county~~  
 17          ~~under subsection (a) by multiplying the amount by the appropriate adjustment factor set out in~~  
 18          ~~the table below. If, after applying the adjustment factors, the resulting total of the amounts~~  
 19          ~~allocated is greater or lesser than the net proceeds to be distributed, the amount allocated to~~  
 20          ~~each county shall be proportionally adjusted to eliminate the excess or shortage.~~

| <b>County</b>  | <b>Adjustment Factor</b> |
|--|--------------------------|
| Dare   | 1.49                     |
| Brunswick  | 1.17                     |
| Orange   | 1.15                     |
| Carteret and Durham  | 1.14                     |
| Avery  | 1.12                     |
| Moore  | 1.11                     |
| Transylvania   | 1.10                     |
| Chowan, McDowell, and Richmond   | 1.09                     |
| Pitt and New Hanover   | 1.07                     |
| Beaufort, Perquimans, Buncombe, and Watauga  | 1.06                     |
| Cabarrus, Jackson, and Surry   | 1.05                     |
| Alleghany, Bladen, Robeson, Washington, Craven, Henderson,<br>Onslow, and Vance          | 1.04                     |
| Gaston, Granville, and Martin  | 1.03                     |
| Alamance, Burke, Caldwell, Chatham, Duplin, Edgecombe,<br>Haywood, Swain, and Wilkes     | 1.02                     |
| Hertford, Union, Stokes, Yancey, Halifax, Rockingham, and<br>Cleveland                   | 1.01                     |
| Alexander, Anson, Johnston, Northampton, Pasquotank, Person,<br>Polk, and Yadkin         | 1.00                     |
| Catawba, Harnett, Iredell, Pamlico, Pender, Randolph, Stanly, and<br>Tyrrell             | 0.99                     |
| Cherokee, Cumberland, Davidson, Graham, Hyde, Macon,<br>Rutherford, Scotland, and Wilson | 0.98                     |
| Ashe, Bertie, Franklin, Hoke, Lincoln, Montgomery, and Warren                            | 0.97                     |
| Wayne, Clay, Madison, Sampson, Wake, Lee, and Forsyth                                    | 0.96                     |
| Caswell, Gates, Mitchell, and Greene   | 0.95                     |
| Currituck and Guilford   | 0.94                     |
| Davie and Nash   | 0.93                     |
| Rowan and Camden   | 0.92                     |

|   |             |      |
|---|-------------|------|
| 1 | Jones       | 0.90 |
| 2 | Mecklenburg | 0.89 |
| 3 | Lenoir      | 0.88 |
| 4 | Columbus    | 0.84 |

(c) Distribution Between Counties and Cities. – The amount allocated to each taxing county shall then be divided among the county and its municipalities in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed.

(d) Limitation. – No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public. The previous sentence becomes effective with respect to distribution of funds on or after July 1, 1999."

**SECTION 6.(e)** G.S. 105-501(a) reads as rewritten:

"(a) ~~Method.~~—Distribution and Use. – The Secretary must, on a monthly basis, allocate ~~to each taxing county~~ the net proceeds of the additional one-half percent (1/2%) sales and use taxes ~~collected in that county levied under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.~~ Article in accordance with G.S. 105-472(a). The net proceeds of the tax revenue received by a county under this Article must be used as provided in G.S. 105-472(a1).

The Secretary must divide and distribute the funds allocated to a taxing county each month under this section between the county and the municipalities located in the county in accordance with the method by which the one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may receive any funds under this section if it was incorporated with an effective date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets are open to the public."

**SECTION 6.(f)** G.S. 105-522 reads as rewritten:

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

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

(1) Amount of sales and use tax revenue allocated under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws. – An allocation to each taxing county of the net proceeds of the tax collected in that county under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws. This definition represents an allocation based on one hundred percent (100%) point of collection.

(2) Amount of sales and use tax revenue allocated under G.S. 105-486. – An allocation of the net proceeds of the tax collected under Article 40 of this Chapter to the taxing counties on a per capita basis. This definition represents an allocation based on one hundred percent (100%) per capita.

~~(3)~~(3) Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.

~~(2)~~(4) Hold harmless amount. – The sum of the following amounts allocated for distribution to a municipality for a month:

- 1 a. The amount of sales and use tax revenue allocated under  
2 G.S. 105-486. This calculation determines the effect of repealing a  
3 one-half percent (1/2%) sales and use tax distributed on a per capita  
4 basis.  
5 b. An amount determined by subtracting twenty-five percent (25%) of  
6 the amount of sales and use tax revenue allocated under  
7 G.S. 105-472 or Chapter 1096 of the 1967 Session Laws from fifty  
8 percent (50%) of the amount of sales and use tax revenue allocated  
9 under G.S. 105-486. This calculation determines the effect of  
10 distributing a one-quarter percent (.25%) tax on the basis of point of  
11 origin instead of on a per capita basis.

12 (5) Net proceeds. – Same meaning as defined in G.S. 105-472.

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

20 **SECTION 6.(g)** G.S. 105-523(b) reads as rewritten:

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

22 (1) Amount of sales and use tax revenue allocated under G.S. 105-472 or  
23 Chapter 1096 of the 1967 Session Laws. – An allocation to each taxing  
24 county of the net proceeds of the tax collected in that county under Article  
25 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws. This  
26 definition represents an allocation based on one hundred percent (100%)  
27 point of collection.

28 (2) Amount of sales and use tax revenue allocated under G.S. 105-486. – An  
29 allocation of the net proceeds of the tax collected under Article 40 of this  
30 Chapter to the taxing counties on a per capita basis. This definition  
31 represents an allocation based on one hundred percent (100%) per capita.

32 ~~(4)~~(3) City hold harmless amount. – The hold harmless amount determined under  
33 G.S. 105-522 for the eligible municipalities in a county.

34 ~~(2)~~(4) Hold harmless threshold. – The amount of a county's Medicaid service costs  
35 and Medicare Part D clawback payments assumed by the State under  
36 G.S. 108A-54 for the fiscal year, less one hundred twenty-five thousand  
37 dollars (\$125,000). A county's Medicaid service costs for fiscal years  
38 2008-2009, 2009-2010, and 2010-2011 are determined without regard to the  
39 changes made to the Federal Medical Assistance Percentage by section 5001  
40 of the American Recovery and Reinvestment Act of 2009.

41 (5) Net proceeds. – Same meaning as defined in G.S. 105-472.

42 ~~(3)~~(6) Repealed sales tax amount. – The sum of the following amounts allocated  
43 for distribution to a county for a month:

- 44 a. The amount of sales and use tax revenue allocated under  
45 G.S. 105-486. This calculation determines the effect of repealing a  
46 one-half percent (1/2%) sales and use tax distributed on a per capita  
47 basis.  
48 b. An amount determined by subtracting twenty-five percent (25%) of  
49 the amount of sales and use tax revenue allocated under  
50 G.S. 105-472 or Chapter 1096 of the 1967 Session Laws from fifty  
51 percent (50%) of the amount of sales and use tax revenue allocated

1                                   under G.S. 105-486. This calculation determines the effect of  
2                                   distributing a one-quarter percent (.25%) tax on the basis of point of  
3                                   origin instead of on a per capita basis."

4                   **SECTION 6.(h)** G.S. 105-487 and G.S. 105-502 are repealed.

5                   **SECTION 6.(i)** This section becomes effective July 1, 2016, and applies to sales  
6 made on or after that date.

7  
8 **PART VII. EFFECTIVE DATE**

9                   **SECTION 7.** Except as otherwise provided, this act is effective when it becomes  
10 law.