

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2013

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SENATE BILL 394

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

Sponsors: Senators Clodfelter (Primary Sponsor); Bingham, Brock, Clark; Ford, Hartsell, Hise, Jenkins, Meredith, Rabin, Rabon, Rucho, Tarte, and Walters.

Referred to: Finance.

March 25, 2013

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

**PART I. GENERAL FINDINGS AND PURPOSE**

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

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

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

- (1) Make North Carolina's tax system more competitive relative to our peer states.



- 1 (2) Conform North Carolina's tax system to the current economy and not that of  
2 the 1933 economy.
- 3 (3) Stabilize North Carolina's tax base and provide a reliable revenue stream for  
4 the future.
- 5 (4) Make North Carolina's tax system fairer so that individual taxpayers and  
6 business taxpayers who are in very similar circumstances to one another are  
7 treated in roughly the same way by the tax system.
- 8 (5) Balance North Carolina's tax revenues among the different types of taxes  
9 and the different groups of taxpayers on a revenue-neutral basis. The  
10 consensus forecasted amounts for fiscal year 2014-2015 are used to establish  
11 the revenue-neutrality of the tax changes in this legislation.

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

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14 **PART II. REDUCE INDIVIDUAL INCOME TAX RATES AND BROADEN TAX**  
15 **BASE**

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

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

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

25 G.S. 105-134.2  
26 G.S. 105-134.3  
27 G.S. 105-134.6  
28 G.S. 105-134.7  
29 G.S. 105-134.8  
30 G.S. 105-151.11  
31 G.S. 105-151.18  
32 G.S. 105-151.20  
33 G.S. 105-151.21  
34 G.S. 105-151.24  
35 G.S. 105-151.26  
36 G.S. 105-151.33

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

39 **"§ 105-153.3. Definitions.**

40 The following definitions apply in this Part:

- 41 (1) Adjusted gross income. – Defined in section 62 of the Code.
- 42 (1a) Code. – Defined in G.S. 105-228.90.
- 43 (2) Department. – The Department of Revenue.
- 44 (3) ~~Educational institution. — An educational institution that normally maintains~~  
45 ~~a regular faculty and curriculum and normally has a regularly organized~~  
46 ~~body of students in attendance at the place where its educational activities~~  
47 ~~are carried on.~~
- 48 (4) Fiscal year. – Defined in section 441(e) of the Code.
- 49 (5) Gross income. – Defined in section 61 of the Code.
- 50 (6) Head of household. – Defined in section 2(b) of the Code.
- 51 (7) Individual. – A human being.

- 1 (7a) Limited liability company. – Either a domestic limited liability company  
2 organized under Chapter 57C of the General Statutes or a foreign limited  
3 liability company authorized by that Chapter to transact business in this  
4 State that is classified for federal income tax purposes as a partnership. As  
5 applied to a limited liability company that is a partnership under this Part,  
6 the term "partner" means a member of the limited liability company.
- 7 (7b) Repealed by Session Laws 1998-98, s. 9, effective August 14, 1998.
- 8 (8) Married individual. – An individual who is married and is considered  
9 married as provided in section 7703 of the Code.
- 10 (9) Nonresident individual. – An individual who is not a resident of this State.
- 11 (10) North Carolina taxable income. – Defined in ~~G.S. 105-134.5~~G.S. 105-153.4.
- 12 (10a) Partnership. – A domestic partnership, a foreign partnership, or a limited  
13 liability company.
- 14 (11) Person. – Defined in G.S. 105-228.90.
- 15 (12) Resident. – An individual who is domiciled in this State at any time during  
16 the taxable year or who resides in this State during the taxable year for other  
17 than a temporary or transitory purpose. In the absence of convincing proof to  
18 the contrary, an individual who is present within the State for more than 183  
19 days during the taxable year is presumed to be a resident, but the absence of  
20 an individual from the state for more than 183 days raises no presumption  
21 that the individual is not a resident. A resident who removes from the State  
22 during a taxable year is considered a resident until he has both established a  
23 definite domicile elsewhere and abandoned any domicile in this State. The  
24 fact of marriage does not raise any presumption as to domicile or residence.
- 25 ~~(13) Retirement benefits. – Amounts paid to a former employee or the beneficiary  
26 of a former employee under a written retirement plan established by the  
27 employer to provide payments to an employee or the beneficiary of an  
28 employee after the end of the employee's employment with the employer  
29 where the right to receive the payments is based upon the employment  
30 relationship. With respect to a self-employed individual or the beneficiary of  
31 a self-employed individual, the term means amounts paid to the individual or  
32 beneficiary of the individual under a written retirement plan established by  
33 the individual to provide payments to the individual or the beneficiary of the  
34 individual after the end of the self-employment. In addition, the term  
35 includes amounts received from an individual retirement account described  
36 in section 408 of the Code or from an individual retirement annuity  
37 described in section 408 of the Code. For the purpose of this subdivision, the  
38 term "employee" includes a volunteer worker.~~
- 39 (14) S Corporation. – Defined in G.S. 105-131(b).
- 40 (15) Secretary. – The Secretary of Revenue.
- 41 (16) Repealed by Session Laws 2011-145, s. 31A.1(a), effective for taxable years  
42 beginning on or after January 1, 2012.
- 43 (17) Taxable year. – Defined in section 441(b) of the Code.
- 44 (18) Taxpayer. – An individual subject to the tax imposed by this Part.
- 45 (19) This State. – The State of North Carolina."

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

47 rewritten:

48 **"§ 105-153.4. North Carolina taxable income defined.**

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

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

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

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

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

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

30 **"§ 105-153.5. Modifications to adjusted gross income.**

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

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

35 a. The United States or its possessions.

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

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

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

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

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

49 a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS  
50 8230.

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

c. Patton v. State, 95 CVS 04346.

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

a. Is earned or received by an enrolled member of a federally recognized Indian tribe.

b. Is derived from activities on a federally recognized Indian reservation while the member resides on the reservation. Income from intangibles having a situs on the reservation and retirement income associated with activities on the reservation are considered income derived from activities on the reservation.

(7) The amount by which the basis of property under this Article exceeds the basis of the property under the Code, in the year the taxpayer disposes of the property.

(8) The amount paid to the taxpayer by the State under G.S. 148-84 as compensation for pecuniary loss suffered by reason of erroneous conviction and imprisonment.

(9) The amount allowed as a deduction under G.S. 105-153.6 as a result of an add-back for federal accelerated depreciation and expensing.

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

(1) Interest upon the obligations of states other than this State, political subdivisions of those states, and agencies of those states and their political subdivisions.

(2) The amount by which a shareholder's share of S Corporation income is reduced under section 1366(f)(2) of the Code for the taxable year by the amount of built-in gains tax imposed on the S Corporation under section 1374 of the Code.

(3) The amount by which the basis of property under the Code exceeds the basis of the property under this Article, in the year the taxpayer disposes of the property.

(4) The amount excluded from gross income under section 199 of the Code.

(5) The amount required to be added under G.S. 105-153.6 when the State decouples from federal accelerated depreciation and expensing.

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

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

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

<u><b>Taxable Year of 85% Add-Back</b></u>	<u><b>Five Taxable Years of 20% Deduction</b></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>

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

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

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

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

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

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

The zero tax brackets are as follows:

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

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

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

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

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

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

- (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>
0	\$5,500	0.0%

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

(c) Withholding Tables. – The Secretary may provide tables that compute the amount of tax due for a taxable year under this Part. The tables do not apply to an individual who files a

1 return under section 443(a)(1) of the Code for a period of less than 12 months due to a change  
2 in the individual's annual accounting period, or to an estate or trust."

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

5 "**§ 105-153.8. Income tax returns.**

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

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

11 (1a) Every nonresident individual who ~~(i) derived~~ meets all of the following  
12 requirements:

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

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

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

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

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

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

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

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

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

11 (f) Repealed by Session Laws 1991.

12 **"§ 105-153.9. Tax credits for income taxes paid to other states by individuals.**

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

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

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

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

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

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

44 **"§ 105-153.10. Other tax credits.**

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

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



1 taxable year for each dependent child for whom the taxpayer is allowed the federal credit. The  
 2 amount of credit allowed is equal to the amount listed in the table below based on the  
 3 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>

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

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

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

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

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

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

39 "**§ 105-130.3. Corporations.**

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

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

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

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

...

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

...

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

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

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

...

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

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

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

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

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

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

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

<u>Taxable Year of 85% Add-Back</u>	<u>Five Taxable Years of 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>

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

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

1 amount that would have been allowed for that taxable year under section 179 of the Code as of  
2 May 1, 2010.

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

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

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

9 "**§ 105-130.7A. Royalty income and interest expense reporting option-options.**

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

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

18 ...

19 (1b) **Interest expense.** – An amount directly or indirectly allowed as a deduction  
20 under section 163 of the Code.

21 ...

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

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

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

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

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

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

41 G.S. 105-130.22 G.S. 105-151.1

42 G.S. 105-130.25

43 G.S. 105-130.34 G.S. 105-151.12

44 G.S. 105-130.36 G.S. 105-151.13

45 G.S. 105-130.37 G.S. 105-151.14

46 G.S. 105-130.43

47 G.S. 105-130.44 G.S. 105-151.25

48 G.S. 105-130.47 G.S. 105-151.29

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

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



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

31 **"§ 105-114.3. Nature of tax.**

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

40 **"§ 105-114.4. Business privilege tax imposed.**

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

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

51 **"§ 105-114.5. Adjusted net worth tax base.**

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

- 8           (1) A liability may not be deducted unless it is a definite and accrued legal  
9           liability.
- 10          (2) A deduction for depreciation and amortization is determined in accordance  
11          with the method used for federal tax purposes.
- 12          (3) A deferred tax liability may be netted against a deferred tax asset but may  
13          not decrease the deferred tax liability below zero.
- 14          (4) A deduction is allowed for billings in excess of costs that are considered a  
15          deferred liability under the percentage of completion method of revenue  
16          recognition.
- 17          (5) No deduction is allowed for indebtedness the business entity owes to a  
18          parent, a subsidiary, or an affiliate. If part of the capital of the creditor  
19          business entity is capital borrowed from a source other than a parent, a  
20          subsidiary, or an affiliate, the debtor business entity may deduct a  
21          proportionate part of the indebtedness based on the ratio of the borrowed  
22          capital of the creditor business entity to the total assets of the creditor  
23          business entity. If the creditor business entity is taxable under this Article,  
24          the creditor business entity may deduct the indebtedness from its net worth,  
25          to the extent the debtor business entity was not allowed to deduct the  
26          indebtedness.
- 27          (6) A deduction is allowed for a reserve for the environmental equipment or  
28          facilities listed in this subdivision if the business entity has a certification  
29          from the appropriate environmental regulatory agency that the business  
30          entity has installed or constructed the equipment or facility and is operating  
31          it properly. For an air-cleaning device, the Department of Environment and  
32          Natural Resources or a local air pollution agency certified under  
33          G.S. 143-215.112 is the appropriate environmental regulatory agency. For  
34          all other equipment and facilities, the Department of Environment and  
35          Natural Resources is the appropriate environmental regulatory agency. This  
36          subdivision applies to equipment or a facility whose primary purpose is to do  
37          one of the following:
  - 38               a. Reduce air or water pollution resulting from the emission of air  
39               contaminants or the discharge of sewage or waste.
  - 40               b. Recycle or recover solid waste.
  - 41               c. Reduce the volume of hazardous waste generated.
- 42          (7) A corporation may deduct the cost of treasury stock.
- 43          (8) An international banking facility may deduct the amount of the facility's  
44          assets employed outside the United States that exceeds the facility's  
45          liabilities owed to a foreign person, as defined in G.S. 105-130.5(b)(13)d.

46 **§ 105-114.6. Investment tax base.**

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

- 1           (1)    A deduction for depreciation or amortization is determined in accordance  
2                   with the method used for federal tax purposes.  
3           (2)    The addition of improvements to the property.  
4           (3)    A deduction for indebtedness on the property or on an improvement to the  
5                   property.  
6           (4)    A deduction for a reserve for the environmental equipment or facilities for  
7                   which a deduction is allowed under G.S. 105-114.5 from the business  
8                   entity's net worth, if the entity has the required certification from the  
9                   appropriate environmental regulatory agency.  
10          (5)    For a business entity allowed a tax credit under Article 3E of this Chapter, a  
11                   deduction for the value of the property for which the credit is allowed.

12    **"§ 105-114.7. Exclusions in calculating tax.**

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

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

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

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

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

30               (3)    A venture capital company may deduct the value of its capital under  
31                   management. A venture capital company is an entity whose purpose is to  
32                   provide financing for start-up businesses and that obtains the capital it uses  
33                   to provide financing only from investors who are accredited investors under  
34                   17 C.F.R. § 230.215 or are institutional investors.

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

39    **"§ 105-114.8. Determination of ownership after certain transfers.**

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

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

1 that were distributed tax-free are considered owned by the business entity as of the last day of  
2 its taxable year.

3 **"§ 105-114.9. Apportionment by multistate business entities.**

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

13 **"§ 105-114.10. Return and payment.**

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

20 ...

21 **"§ 105-116.2. Compensating privilege tax on seller that is not a registered retailer.**

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

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

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

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

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

36 **"§ 105-116.3. Compensating privilege tax on unregulated electric power producer.**

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

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

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

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

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

48 **"§ 105-125.1. Exempt business entities.**

49 A business entity listed in this section is exempt from the privilege tax imposed by  
50 G.S. 105-114.4 unless it has unrelated business income. A business entity that is listed in this  
51 section and has unrelated business income is subject to the tax imposed by G.S. 105-114.4 on



1 its adjusted net worth or property attributable to its unrelated business income. Upon request of  
 2 the Secretary, an exempt business entity must establish its claim for exemption in writing. The  
 3 exempt entities are:

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

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

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

15 **"§ 55-1-22. Filing, service, and copying fees.**

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

18 Document	19 Fee
20 ...	
21 (23) Annual report <del>(paper)</del>	25.00 <del>No fee</del>
22 <del>(23a) Annual report (electronic)</del>	18.00
23 ...	

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

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

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

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

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

33 **"§ 55-16-22. Annual report.**

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

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

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

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

50 (a3) ~~The annual report required by this section shall be in a form jointly prescribed by~~  
 51 ~~the Secretary of Revenue and the Secretary of State. The Secretary of Revenue shall provide~~

1 the form needed to file an annual report. The Secretary of State shall prescribe the form needed  
2 to file an annual report electronically and shall provide this form by electronic means. The  
3 annual report shall set forth all of the following:

- 4 (1) The name of the corporation and the state or country under whose law it is  
5 incorporated.
- 6 (2) The street address, and the mailing address if different from the street  
7 address, of the registered office, the county in which its registered office is  
8 located, and the name of its registered agent at that office in this State, and a  
9 statement of any change of such registered office or registered agent, or  
10 both.
- 11 (3) The address and telephone number of its principal office.
- 12 (4) The names, titles, and business addresses of its principal officers.
- 13 (4a) Repealed by Session Laws 1997-475, s. 6.1, effective January 1, 1998.
- 14 (5) A brief description of the nature of its business.

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

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

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

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

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

50 (d) Incomplete Report. – If the Secretary of State determines that an annual report filed  
51 with the Secretary does not contain the information required by this section, the Secretary must

1 send a written notice to the business that the report is incomplete. An annual report that is  
2 corrected to contain the information and filed with the Secretary within 30 days of the date of  
3 the notice is considered timely filed.~~If an annual report does not contain the information~~  
4 ~~required by this section, the Secretary of State shall promptly notify the reporting domestic or~~  
5 ~~foreign corporation in writing and return the report to it for correction. If the report is corrected~~  
6 ~~to contain the information required by this section and delivered to the Secretary of State within~~  
7 ~~30 days after the effective date of notice, it is deemed to be timely filed.~~

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

11 (f) ~~Expired.~~

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

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

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

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

<u>Document</u>	<u>Fee</u>
22 ...	
23 (25) Annual report .....	200.00 <u>No fee</u>
24 ...."	

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

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

Document	Fee
28 ...	
29 (18) Annual report .....	200.00 <u>No fee</u>
30 ...."	

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

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

Document	Fee
34 ...	
35 (22) Annual report for a limited liability limited partnership .....	200.00 <u>No fee</u>
36 ...."	

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

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

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

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

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

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

- 46 (1) Employee or officer. – The term includes a former employee, a former  
47 officer, and a current or former member of a State board or commission.

- 1 (2) Tax information. – Any information from any source concerning the liability  
 2 of a taxpayer for a tax, as defined in G.S. 105-228.90. The term includes the  
 3 following:  
 4 a. Information contained on a tax return, a tax report, or an application  
 5 for a license for which a tax is imposed.  
 6 b. Information obtained through an audit of a taxpayer or by  
 7 correspondence with a taxpayer.  
 8 c. Information on whether a taxpayer has filed a tax return or a tax  
 9 report.  
 10 d. A list or other compilation of the names, addresses, social security  
 11 numbers, or similar information concerning taxpayers.

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

17 **SECTION 4.2.(j)** This section becomes effective January 1, 2015. Subsection (f)  
 18 of this section applies to returns due on or after April 15, 2015, for taxable years beginning on  
 19 or after January 1, 2015. The remaining sections apply to annual reports due on or after January  
 20 1, 2015.

21  
 22 **PART V. REDUCE SALES TAX RATE AND BROADEN SALES TAX BASE**

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

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

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

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

28 G.S. 105-33	G.S. 105-103
29 G.S. 105-33.1	G.S. 105-105
30 G.S. 105-37.1	G.S. 105-106
31 G.S. 105-38.1	G.S. 105-108
32 G.S. 105-40	G.S. 105-109

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

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

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

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

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

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

1 (1) No city shall impose or collect any greater franchise, privilege, or license  
2 taxes, in the aggregate, on an electric power company that was imposed and  
3 collected on or before January 1, 1947.

4 (2) A city may not levy a license, franchise, or privilege tax on a person engaged  
5 in the business of supplying piped natural gas.

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

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

11 **"§ 105-164.3. Definitions.**

12 The following definitions apply in this Article:

13 ...  
14 (1c) Alteration, repair, maintenance, cleaning, and installation services. – The  
15 term includes the activities listed in this subdivision:

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

18 b. Repairing tangible personal property to restore it to proper working  
19 order.

20 c. Maintaining tangible personal property to keep the property in  
21 working order, to avoid breakdown, or to prevent unnecessary  
22 repairs.

23 d. Cleaning tangible personal property.

24 e. Installing tangible personal property.

25 ...  
26 (2b) Capital equipment. – Equipment that is capitalized by the purchaser for tax  
27 purposes under the Code and attachments and repair parts for that  
28 equipment.

29 ...  
30 (4a) ~~Combined general~~–rate. – The State's general rate of tax set in  
31 G.S. 105-164.4(a) plus the sum of the rates of the local sales and use taxes  
32 authorized by Subchapter VIII of this Chapter for every county in this State.

33 ...  
34 (5e) Datacenter equipment. – Capital equipment that is located and used at a  
35 datacenter for any of the following:

36 a. For the provision of a service included in the business of the primary  
37 user of the datacenter, including equipment cooling systems for  
38 managing the performance of the property, hardware and software  
39 for distributed and mainframe computers and servers, data storage  
40 devices, network connectivity equipment, and peripheral components  
41 and equipment.

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

45 c. To provide related computer engineering or computer science  
46 research.

47 ...  
48 (35) Retailer. – A person engaged in the business of any of the following:

49 a. Making sales at retail, offering to make sales at retail, or soliciting  
50 sales at retail of tangible personal property, digital property, or  
51 services for storage, use, or consumption in this State. When the

1 Secretary finds it necessary for the efficient administration of this  
2 Article to regard any sales representatives, solicitors, representatives,  
3 consignees, peddlers, or truckers as agents of the dealers,  
4 distributors, consignors, supervisors, employers, or persons under  
5 whom they operate or from whom they obtain the items sold by them  
6 regardless of whether they are making sales on their own behalf or on  
7 behalf of these dealers, distributors, consignors, supervisors,  
8 employers, or persons, the Secretary may so regard them and may  
9 regard the dealers, distributors, consignors, supervisors, employers,  
10 or persons as "retailers" for the purpose of this Article. A person who  
11 sells tangible personal property, other than the person's own  
12 household personal property, at a specialty market as defined in  
13 G.S. 66-250 is a retailer.

14 b. Delivering, erecting, installing, or applying tangible personal  
15 property for use in this State, regardless of whether the property is  
16 permanently affixed to real property or other tangible personal  
17 property.

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

20 ...

21 (38b) Service contract. – A warranty agreement, a maintenance agreement, a repair  
22 contract, or a similar agreement or contract by which the seller agrees to  
23 maintain or repair tangible personal property.

24 (38d) Short-term lease or rental. – Defined in G.S. 105-187.1."

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

26 "**§ 105-164.4. ~~Tax imposed on retailers.~~ Privilege tax imposed on retailer at various rates.**

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

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

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

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

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

- 1 hundred dollars (\$300.00) per article. Each section of a manufactured home  
2 that is transported separately to the site where it is to be erected is a separate  
3 article.
- 4 (1b) ~~The rate of three percent (3%) applies to the sales price of each aircraft or~~  
5 ~~boat sold at retail, including all accessories attached to the item when it is~~  
6 ~~delivered to the purchaser. The maximum tax is one thousand five hundred~~  
7 ~~dollars (\$1,500) per article.~~
- 8 (1c), (1d) and (1e) ~~Repealed by Session Laws 2005-276, s. 33.4(b), effective~~  
9 ~~January 1, 2006.~~
- 10 (1f) ~~The rate of two and eighty three hundredths percent (2.83%) applies to the~~  
11 ~~sales price of electricity that is measured by a separate meter or another~~  
12 ~~separate device and sold to a commercial laundry or to a pressing and~~  
13 ~~dry-cleaning establishment for use in machinery used in the direct~~  
14 ~~performance of the laundering or the pressing and cleaning service.~~
- 15 a. ~~Repealed by Session Laws 2007-397, s. 10(b), effective October 1,~~  
16 ~~2007, and applicable to sales occurring on or after that date.~~
- 17 b. ~~Repealed by Session Laws 2006-66, s. 24.19(a), effective July 1,~~  
18 ~~2007, and applicable to sales made on or after that date.~~
- 19 e. ~~Repealed by Session Laws 2007-397, s. 10(b), effective October 1,~~  
20 ~~2007, and applicable to sales occurring on or after that date.~~
- 21 (1g) ~~Repealed by Session Laws 2004-110, s. 6.1, effective October 1, 2004, and~~  
22 ~~applicable to sales of electricity made on or after that date.~~
- 23 (1h) ~~Expired pursuant to Session Laws 2004-110, s. 6.4, effective for sales made~~  
24 ~~on or after October 1, 2007.~~
- 25 (1i) ~~Repealed by Session Laws 2007-397, s. 10(a), effective October 1, 2007,~~  
26 ~~and applicable to sales occurring on or after that date.~~
- 27 (1j) ~~Repealed by Session Laws 2007-397, s. 10(f), effective July 1, 2010, and~~  
28 ~~applicable to sales occurring on or after that date.~~
- 29 a. ~~Sales of electricity to manufacturing industries and manufacturing~~  
30 ~~plants for use in connection with the operation of the industries and~~  
31 ~~plants.~~
- 32 b. ~~Sales of electricity to farmers to be used by them for any farming~~  
33 ~~purposes other than preparing food, heating dwellings, and other~~  
34 ~~household purposes.~~
- 35 (2) ~~The applicable percentage rate applies to the gross receipts derived from the~~  
36 ~~lease or rental of tangible personal property by a person who is engaged in~~  
37 ~~the business of leasing or renting tangible personal property, or is a retailer~~  
38 ~~and leases or rents property of the type sold by the retailer. The applicable~~  
39 ~~percentage rate is the rate and the maximum tax, if any, that applies to a sale~~  
40 ~~of the property that is leased or rented. A person who leases or rents property~~  
41 ~~shall also collect the tax imposed by this section on the separate retail sale of~~  
42 ~~the property.~~
- 43 (3) ~~A tax at the general rate applies to the gross receipts derived from the rental~~  
44 ~~of an accommodation. The tax does not apply to a private residence or~~  
45 ~~cottage that is rented for fewer than 15 days in a calendar year or to an~~  
46 ~~accommodation rented to the same person for a period of 90 or more~~  
47 ~~continuous days.~~
- 48 ~~Gross receipts derived from the rental of an accommodation include the~~  
49 ~~sales price of the rental of the accommodation. The sales price of the rental~~  
50 ~~of an accommodation is determined as if the rental were a rental of tangible~~  
51 ~~personal property. The sales price of the rental of an accommodation~~



1 marketed by a facilitator includes charges designated as facilitation fees and  
2 any other charges necessary to complete the rental.

3 ~~A person who provides an accommodation that is offered for rent is  
4 considered a retailer under this Article. A facilitator must report to the  
5 retailer with whom it has a contract the sales price a consumer pays to the  
6 facilitator for an accommodation rental marketed by the facilitator. A retailer  
7 must notify a facilitator when an accommodation rental marketed by the  
8 facilitator is completed and, within three business days of receiving the  
9 notice, the facilitator must send the retailer the portion of the sales price the  
10 facilitator owes the retailer and the tax due on the sales price. A facilitator  
11 that does not send the retailer the tax due on the sales price is liable for the  
12 amount of tax the facilitator fails to send. A facilitator is not liable for tax  
13 sent to a retailer but not remitted by the retailer to the Secretary. Tax  
14 payments received by a retailer from a facilitator are held in trust by the  
15 retailer for remittance to the Secretary. A retailer that receives a tax payment  
16 from a facilitator must remit the amount received to the Secretary. A retailer  
17 is not liable for tax due but not received from a facilitator. The requirements  
18 imposed by this subdivision on a retailer and a facilitator are considered  
19 terms of the contract between the retailer and the facilitator.~~

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

- 26 a. ~~Accommodation. — A hotel room, a motel room, a residence, a  
27 cottage, or a similar lodging facility for occupancy by an individual.~~  
28 b. ~~Facilitator. — A person who is not a rental agent and who contracts  
29 with a provider of an accommodation to market the accommodation  
30 and to accept payment from the consumer for the accommodation.~~

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

44 (4a) ~~The rate of three percent (3%) applies to the gross receipts derived from  
45 sales of electricity, other than sales of electricity subject to tax under another  
46 subdivision in this section. A person who sells electricity is considered a  
47 retailer under this Article.~~

48 (4b) ~~A person who sells tangible personal property at a specialty market, other  
49 than the person's own household personal property, is considered a retailer  
50 under this Article. A tax at the general rate of tax is levied on the sales price~~

- 1 of each article sold by the retailer at the specialty market. The term  
2 "specialty market" has the same meaning as defined in G.S. 66-250.
- 3 (4c) ~~The combined general rate applies to the gross receipts derived from  
4 providing telecommunications service and ancillary service. A person who  
5 provides telecommunications service or ancillary service is considered a  
6 retailer under this Article. These services are taxed in accordance with  
7 G.S. 105-164.4C.~~
- 8 (4d) ~~The sale or recharge of prepaid telephone calling service is taxable at the  
9 general rate of tax. The tax applies regardless of whether tangible personal  
10 property, such as a card or a telephone, is transferred. The tax applies to a  
11 service that is sold in conjunction with prepaid wireless calling service.  
12 Prepaid telephone calling service is taxable at the point of sale instead of at  
13 the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid  
14 telephone calling service taxed under this subdivision is not subject to tax as  
15 a telecommunications service.~~
- 16 (5) ~~Repealed by Session Laws 1998-212, s. 29A.1(a), effective May 1, 1999.~~
- 17 (6) ~~The combined general rate applies to the gross receipts derived from  
18 providing video programming to a subscriber in this State. A cable service  
19 provider, a direct-to-home satellite service provider, and any other person  
20 engaged in the business of providing video programming is considered a  
21 retailer under this Article.~~
- 22 (6a) ~~The general rate applies to the gross receipts derived from providing satellite  
23 digital audio radio service. For services received by a mobile or portable  
24 station, the service is sourced to the subscriber's business or home address. A  
25 person engaged in the business of providing satellite digital audio radio  
26 service is a retailer under this Article.~~
- 27 (6b) ~~The general rate applies to the digital property that is listed in this  
28 subdivision, is delivered or accessed electronically, is not considered  
29 tangible personal property, and would be taxable under this Article if sold in  
30 a tangible medium. The tax applies regardless of whether the purchaser of  
31 the item has a right to use it permanently or to use it without making  
32 continued payments. The tax does not apply to a service that is taxed under  
33 another subdivision of this subsection or to an information service. The  
34 following property is subject to tax under this subdivision:~~
- 35 a. ~~An audio work.~~
- 36 b. ~~An audiovisual work.~~
- 37 c. ~~A book, a magazine, a newspaper, a newsletter, a report, or another  
38 publication.~~
- 39 d. ~~A photograph or a greeting card.~~
- 40 (7) ~~The combined general rate applies to the sales price of spirituous liquor  
41 other than mixed beverages. As used in this subdivision, the terms  
42 "spirituous liquor" and "mixed beverage" have the meanings provided in  
43 G.S. 18B-101.~~
- 44 (8) ~~The rate of two and one-half percent (2.5%) applies to the sales price of each  
45 modular home sold at retail, including all accessories attached to the  
46 modular home when it is delivered to the purchaser. The sale of a modular  
47 home to a modular homebuilder is considered a retail sale. A person who  
48 sells a modular home at retail is allowed a credit against the tax imposed by  
49 this subdivision for sales or use tax paid to another state on tangible personal  
50 property incorporated in the modular home. The retail sale of a modular~~

1 home occurs when a modular home manufacturer sells a modular home to a  
2 modular homebuilder or directly to the end user of the modular home.

3 (b) ~~The tax levied in this section shall be collected from the retailer and paid by him at~~  
4 ~~the time and in the manner as hereinafter provided. Provided, however, that any person~~  
5 ~~engaging or continuing in business as a retailer shall pay the tax required on the net taxable~~  
6 ~~sales of such business at the rates specified when proper books are kept showing separately the~~  
7 ~~gross proceeds of taxable and nontaxable sales of tangible personal property in such form as~~  
8 ~~may be accurately and conveniently checked by the Secretary or his duly authorized agent. If~~  
9 ~~such records are not kept separately the tax shall be paid as a retailer on the gross sales of~~  
10 ~~business and the exemptions and exclusions provided by this Article shall not be allowed. The~~  
11 ~~tax levied in this section is in addition to all other taxes whether levied in the form of excise,~~  
12 ~~license or privilege or other taxes.~~

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

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

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

18 G.S. 105-164.13(49)

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

20 G.S. 105-164.44G

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

23 **"§ 105-164.4E. Accommodation rentals.**

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

25 (1) Accommodation. – A hotel room, a motel room, a residence, a cottage, or a  
26 similar lodging facility for occupancy by an individual.

27 (2) Facilitator. – A person who is not a rental agent and who contracts with a  
28 provider of an accommodation to market the accommodation and to accept  
29 payment from the consumer for the accommodation.

30 (3) Rental agent. – The term includes a real estate broker, as defined in  
31 G.S. 93A-2.

32 (b) Tax. – The gross receipts derived from the rental of an accommodation are taxed at  
33 the general rate set in G.S. 105-164.4. Gross receipts derived from the rental of an  
34 accommodation include the sales price of the rental of the accommodation. The sales price of  
35 the rental of an accommodation is determined as if the rental were a rental of tangible personal  
36 property. The sales price of the rental of an accommodation marketed by a facilitator includes  
37 charges designated as facilitation fees and any other charges necessary to complete the rental.

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

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

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

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

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

10 **"§ 105.164.4F. Entertainment and recreation.**

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

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

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

18               b. A movie or another audiovisual work.

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

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

26               a. A game.

27               b. A sport.

28               c. A fitness activity.

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

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

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

35       (c) Ticket Resales. – When an admission ticket is resold and the price of the admission  
36 ticket is printed on the face of the ticket, the tax does not apply to the face price. When an  
37 admission ticket is resold and the price of the admission ticket is not printed on the face of the  
38 ticket, the tax applies to the difference between the amount the reseller paid for the ticket and  
39 the amount the reseller charges for the ticket."

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

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

45               a. A service contract.

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

47       (61) Reserved.

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

50       (63) Admission charges to any of the following recreational or entertainment  
51 activities:

- 1           a.     An event that is held at an elementary or secondary school and is  
2                 sponsored by the school.  
3           b.     A commercial agricultural fair that meets the requirements of  
4                 G.S. 106-520.1, as determined by the Commissioner of Agriculture.  
5           c.     A festival or other recreational or entertainment activity that lasts no  
6                 more than seven consecutive days and is sponsored by a nonprofit  
7                 entity that is exempt from tax under Article 4 of this Chapter and  
8                 uses the entire proceeds of the activity exclusively for the entity's  
9                 nonprofit purposes. This exemption applies to no more than two  
10                activities sponsored by the entity during a calendar year.

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

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

14           "(a) Amount. – The rate of the use tax imposed by this Article is three percent (3%) of  
15 the retail value of a motor vehicle for which a certificate of title is issued. The tax is payable as  
16 provided in G.S. 105-187.4. ~~The maximum tax is one thousand dollars (\$1,000) for each~~  
17 ~~certificate of title issued for a Class A or Class B motor vehicle that is a commercial motor~~  
18 ~~vehicle, as defined in G.S. 20-4.01. The maximum tax is one thousand five hundred dollars~~  
19 ~~(\$1,500) for each certificate of title issued for a recreational vehicle that is not subject to the~~  
20 ~~one thousand dollar (\$1,000) maximum tax."~~

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

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

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

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

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

- 44           a.     Guard or security patrol service.  
45           b.     Armored car service.  
46           c.     Remote monitoring of a security alarm system.  
47           d.     Locksmith service.  
48           e.     Telematic service that provides communication, tracking, and  
49                 emergency response services to motor vehicle owners."

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

1 **"§ 105-164.12D. Tangible personal property installed by a person who provides a**  
 2 **landscaping service.**

3 A person who provides a landscaping service and who installs a tree, shrub, or other  
 4 tangible personal property in the course of providing the service may do so as a performance  
 5 contractor or as an installing retailer. A person who provides a landscaping service as a  
 6 performance contractor is the consumer of all tangible personal property installed in the course  
 7 of providing the service. When a person provides a landscaping service as an installing retailer,  
 8 the purchaser of the service and not the provider of the service is considered the consumer of  
 9 tangible personal property installed in the course of providing the service.

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

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

22 "(4h) A service provided to a farmer, as defined in subdivision (1) of this section,  
 23 to control pests in crops grown for commercial purposes.

24 ...

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

27 a. A newly constructed building or other structure.

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

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

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

31 **"§ 105-164.13B. Food exempt from tax. Most food taxable at low rate.**

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

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

37 (2) Dietary supplements.

38 (3) Food sold through a vending machine.

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

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

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

49 (5) Soft drinks.

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

51 (7) Candy.

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

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

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

12       (1) The Secretary must allocate one-half of the net proceeds on a per capita  
13 basis according to the most recent annual population estimates certified to  
14 the Secretary by the State Budget Officer. ~~The Secretary must then adjust the~~  
15 ~~amount allocated to each county as provided in G.S. 105-486(b). The~~  
16 ~~Secretary must include one half of the amount allocated under this~~  
17 ~~subdivision in the distribution made under Article 40 of this Chapter and~~  
18 ~~must include the remaining one half in the distribution made under Article~~  
19 ~~42 of this Chapter.~~

20       (2) The Secretary must allocate the remaining net proceeds ~~proportionately to~~  
21 ~~each taxing county based upon the amount of sales tax on food collected in~~  
22 ~~the taxing county in the 1997-1998 fiscal year under Article 39 of this~~  
23 ~~Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total~~  
24 ~~amount of sales tax on food collected in all taxing counties in the 1997-1998~~  
25 ~~fiscal year under Article 39 of this Chapter and under Chapter 1096 of the~~  
26 ~~1967 Session Laws. The Secretary must include the amount allocated under~~  
27 ~~this subdivision in the distribution made under Article 39 of this Chapter to~~  
28 ~~each taxing county based on the county of collection."~~

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

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

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

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

34       "**§ 105-164.13. Retail sales and use tax.**

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

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

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

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

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



- 1                   a.     A research and development company in the physical, engineering,
- 2                             and life sciences that is included in industry group 54171 of NAICS
- 3                             for use by the company in the research and development of tangible
- 4                             personal property.
- 5                   b.     A software publishing company that is included in industry group
- 6                             5112 of NAICS for use by the company in the research and
- 7                             development of tangible personal property.
- 8                   c.     An industrial machinery refurbishing company that is included in
- 9                             industry group 811310 of NAICS for use by the company in
- 10                            repairing or refurbishing tangible personal property.
- 11           (5h)   Sales to a company located at a ports facility for waterborne commerce of
- 12                            capital equipment for use at the facility to unload or process bulk cargo to
- 13                            make the cargo suitable for delivery to and use by a manufacturer.
- 14           (5i)   Datacenter machinery and equipment exempt from sales and use tax under
- 15                            G.S. 105-164.13E.
- 16           ...
- 17           (10)   Sales of the following to commercial laundries or to pressing and dry
- 18                            cleaning establishments:
- 19                   a.     Articles or materials used for the identification of garments being
- 20                             laundered or dry cleaned, wrapping paper, bags, hangers, starch,
- 21                             soaps, detergents, cleaning fluids and other compounds or chemicals
- 22                             applied directly to the garments in the direct performance of the
- 23                             laundering or the pressing and cleaning service.
- 24                   b.     Laundry and dry-cleaning ~~machinery, parts and accessories attached~~
- 25                            ~~to the machinery, and lubricants applied to the machinery.~~machinery
- 26                            that is capital equipment.
- 27                   c.     ~~Fuel, other than electricity,~~Fuel used in the direct performance of the
- 28                             laundering or the pressing and cleaning service. Electricity qualifies
- 29                             for this exemption only if it is measured by a separate meter or
- 30                             another separate device.

31           ...."

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

33   "**§ 105-164.13. Retail sales and use tax.**

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

- 37           ...
- 38           (3)     Products of forests and mines in their original ~~or unmanufactured~~ state when
- 39                            such sales are made by the producer in the capacity of producer.
- 40           ...
- 41           (7)     Sales of products of waters in their original ~~or unmanufactured~~ state when
- 42                            such sales are made by the producer in the capacity of producer. Fish and
- 43                            seafoods are likewise exempt when sold by the fisherman in that capacity.

44           ...."

45           **SECTION 5.7.(e)** Part 3 of Article 5 of Chapter 105 of the General Statutes is  
 46   amended by adding a new section to read:

47   "**§ 105-164.13E. Exemption for datacenter.**

- 48           (a)     Exemption. – Datacenter equipment is exempt from sales and use tax if it is located
- 49                            and used at a datacenter that meets the requirements of subsection (b), (c), or (d) of this section.
- 50                            Electricity used by a datacenter is exempt from sales and use tax if it is used at a datacenter that
- 51                            meets the requirements of subsection (d) of this section.

1        (b) All Datacenters. – A datacenter qualifies under this subsection if it has received a  
2 written determination from the Secretary of Commerce that it meets all of the following  
3 requirements:

4            (1) The wage standard and health insurance requirements of  
5 G.S. 143B-437.08A.

6            (2) The minimum investment level set in this subdivision for its location. The  
7 level of investment must consist of private funds that have been or will be  
8 invested in real and tangible property for the datacenter within five years of  
9 the date the datacenter's owner makes its first property investment in the  
10 datacenter.

11            a. For a datacenter in a development tier one area, the minimum  
12 investment level is one hundred fifty million dollars (\$150,000,000).

13            b. For a datacenter located in a development tier two area or a  
14 development tier three area, the minimum investment level is two  
15 hundred twenty-five million dollars (\$225,000,000).

16        (c) Second Datacenter. – A datacenter qualifies under this subsection if it is owned by  
17 or under common control with the owner of a datacenter that qualified under subsection (b) of  
18 this section and it meets all of the following requirements:

19            (1) The Secretary of Commerce certifies that it meets the same requirements  
20 that apply to the first datacenter under subsection (b) of this section except  
21 that the minimum investment level is seventy-five million dollars  
22 (\$75,000,000) and must be made within five years after the first datacenter is  
23 placed in service.

24            (2) The two datacenters are linked through a fiber-optic connection or a similar  
25 connection.

26            (3) The two datacenters are placed in service within five years of each other.

27        (d) Publishers and Portals. – A datacenter qualifies under this subsection if it meets all  
28 of the following requirements:

29            (1) It is to be used primarily by a business engaged in software publishing  
30 included in industry 511210 of NAICS or an Internet activity included in  
31 industry 519130 of NAICS.

32            (2) It is comprised of a structure or series of structures located or to be located  
33 on a single parcel of land or on contiguous parcels of land that are  
34 commonly owned or owned by affiliation with the operator of the datacenter.

35            (3) It is located or to be located in a county that was designated an enterprise tier  
36 one, two, or three area or a development tier one or two area.

37            (4) It has received a written determination from the Secretary of Commerce that  
38 at least two hundred fifty million dollars (\$250,000,000) in private funds has  
39 been or will be invested in real property or datacenter property within five  
40 years after the commencement of construction of the datacenter.

41        (e) County Designation. – The enterprise or tier area of a county is determined as of the  
42 date the datacenter applies to the Secretary of Commerce for a written determination of whether  
43 it meets the requirements of those subsections. A change in a designation after certification by  
44 the Secretary of Commerce does not affect the eligibility of a datacenter for the exemption  
45 allowed under this section.

46        (f) Sunset. – The exemptions provided in subsections (b) and (c) of this section expire  
47 for sales occurring on or after July 1, 2015."

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

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

1       "(a) Tax Imposed. – A privilege tax is imposed on a retailer at the following percentage  
2 rates of the retailer's net taxable sales of tangible personal property, digital property, and  
3 services. The general rate of tax is four and ~~three-quarters one-half percent (4.75%)-(4.5%)~~. The  
4 general rate applies to a taxable item unless the item is subject to tax at the combined rate of tax  
5 or to a rate of tax that differs from both the general rate and the combined rate. Subsection (b)  
6 of this section lists the items that are subject to the general rate. An item taxable under  
7 subsection (b) of this section is also subject to local sales and use tax. Subsection (c) of this  
8 section lists the items that are subject to the combined rate."

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

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

12       "**§ 105-164.5B. Automatic rate decrease.**

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

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

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

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

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

(7) ~~The gross receipts derived from providing satellite digital audio radio service subject to the general rate of tax under G.S. 105-164.4(a)(6a):"~~

**SECTION 5.10.(b)** G.S. 105-467(a), as amended by subsection (a) of this section, 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 to engage in only those activities that are authorized by the corresponding ABC permit. The activities authorized by each retail ABC permit are described in Article 10 of Chapter 18B of the General Statutes and the activities authorized by each commercial ABC permit are described in Article 11 of that Chapter."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 A city may require city malt beverage and wine wholesaler licenses for businesses located  
 2 inside the city, but may not require a license for a business located outside the city, regardless  
 3 whether that business sells or delivers malt beverages or wine inside the city. ~~The city may~~  
 4 ~~charge an annual tax of not more than thirty seven dollars and fifty cents (\$37.50) for a city~~  
 5 ~~malt beverage wholesaler or a city wine wholesaler license."~~

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

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

9 **"§ 153A-152. Privilege No general authority for privilege license taxes.**

10 (a) ~~Authority. — A county may levy privilege license taxes on trades, occupations,~~  
 11 ~~professions, businesses, and franchises to the extent authorized by Article 2 of Chapter 105 of~~  
 12 ~~the General Statutes and any other acts of the General Assembly. A county may levy privilege~~  
 13 ~~license taxes to the extent formerly authorized by the following sections of Article 2 of Chapter~~  
 14 ~~105 of the General Statutes before they were repealed:~~

15 G.S. 105-50 Pawnbrokers.

16 G.S. 105-53 Peddlers, itinerant merchants, and specialty market  
 17 operators.

18 G.S. 105-55 Installing elevators and automatic sprinkler systems.

19 G.S. 105-58 Fortune tellers, palmists, etc.

20 G.S. 105-65 Music machines.

21 G.S. 105-66.1 Electronic video games.

22 G.S. 105-80 Firearms dealers and dealers in other weapons.

23 G.S. 105-89 Automobiles, wholesale supply dealers and service  
 24 stations.

25 G.S. 105-89.1 Motorcycle dealers.

26 G.S. 105-90 Emigrant and employment agents.

27 G.S. 105-102.5 General business license.

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

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

33 **"§ 160A-211. Privilege No general authority for privilege license taxes.**

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

40 G.S. 105-36 Amusements — Manufacturing, selling, leasing, or  
 41 distributing moving picture films.

42 G.S. 105-36.1 Amusements — Outdoor theatres.

43 G.S. 105-37 Amusements — Moving pictures — Admission.

44 G.S. 105-42 Private detectives and investigators.

45 G.S. 105-45 Collecting agencies.

46 G.S. 105-46 Undertakers and retail dealers in coffins.

47 G.S. 105-50 Pawnbrokers.

48 G.S. 105-51.1 Alarm systems.

49 G.S. 105-53 Peddlers, itinerant merchants, and specialty market  
 50 operators.

51 G.S. 105-54 Contractors and construction companies.

1	<del>G.S. 105-55</del>	<del>Installing elevators and automatic sprinkler systems.</del>
2	<del>G.S. 105-61</del>	<del>Hotels, motels, tourist courts and tourist homes.</del>
3	<del>G.S. 105-62</del>	<del>Restaurants.</del>
4	<del>G.S. 105-65</del>	<del>Music machines.</del>
5	<del>G.S. 105-65.1</del>	<del>Merchandising dispensers and weighing machines.</del>
6	<del>G.S. 105-66.1</del>	<del>Electronic video games.</del>
7	<del>G.S. 105-74</del>	<del>Pressing clubs, dry cleaning plants, and hat blockers.</del>
8	<del>G.S. 105-77</del>	<del>Tobacco warehouses.</del>
9	<del>G.S. 105-80</del>	<del>Firearms dealers and dealers in other weapons.</del>
10	<del>G.S. 105-85</del>	<del>Laundries.</del>
11	<del>G.S. 105-86</del>	<del>Outdoor advertising.</del>
12	<del>G.S. 105-89</del>	<del>Automobiles, wholesale supply dealers, and service</del>
13		<del>stations.</del>
14	<del>G.S. 105-89.1</del>	<del>Motorcycle dealers.</del>
15	<del>G.S. 105-90</del>	<del>Emigrant and employment agents.</del>
16	<del>G.S. 105-91</del>	<del>Plumbers, heating contractors, and electricians.</del>
17	<del>G.S. 105-97</del>	<del>Manufacturers of ice cream.</del>
18	<del>G.S. 105-98</del>	<del>Branch or chain stores.</del>
19	<del>G.S. 105-99</del>	<del>Wholesale distributors of motor fuels.</del>
20	<del>G.S. 105-102.1</del>	<del>Certain cooperative associations.</del>
21	<del>G.S. 105-102.5</del>	<del>General business license.</del>

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

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

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

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

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

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

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

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

40 "**§ 105-113.21. Discount; refund.**

41 ...

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

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

1 on the unsalable cigarettes. The distributor must return the cigarettes to the manufacturer of the  
2 cigarettes or to the affiliated manufacturer who is contracted by the manufacturer of the  
3 cigarettes to serve as the manufacturer's agent for the purposes of validating quantities and  
4 disposing of unsalable cigarettes."

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

6 "**§ 105-113.39. Discount; refund.**

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

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

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

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

## 23

## 24 **PART VII. REPLACE LOCAL DISTRIBUTIONS WITH EXPANDED LOCAL**

## 25 **SALES TAX BASE**

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

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

28 "**§ 108A-93. Withholding of State moneys from counties failing to pay public assistance**  
29 **costs.**

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

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

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

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

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

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

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

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

49 "**§ 115C-546.1. Creation of Fund; administration.**



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

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

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

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

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

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

## 18 **PART VIII. TRANSITIONAL PROVISIONS**

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

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

24 ...

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

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

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

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

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

## 50 **PART IX. PRIVILEGE TAX CONFORMING CHANGES**

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

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

3    **"§ 53-165. Definitions.**

4           The following definitions apply in this Article:

5           ~~(a)(1) "Amount of the loan" shall mean the~~ Amount of the loan. – The aggregate of  
6           the cash advance and the charges authorized by G.S. 53-173 and  
7           G.S. 53-176.

8           ~~(b)(2) "Borrower" shall mean any Borrower.~~ – A person who borrows money ~~from~~  
9           ~~any licensee or who pays or obligates himself to pay any money from, pays~~  
10           or is obligated to pay money to, or otherwise furnishes any valuable  
11           consideration to any licensee for any act of the licensee as a licensee.

12           ~~(c)(3) "Cash advance" shall mean the~~ Cash advance. – The amount of cash or its  
13           equivalent ~~that the a borrower actually receives or is paid out at his~~  
14           ~~discretion or on his behalf.~~ the discretion of the borrower or on behalf of the  
15           borrower.

16           ~~(d)(4) "Commission" shall mean the~~ Commission. – The State Banking  
17           Commission.

18           ~~(e)(5) "Commissioner" shall mean the~~ Commissioner. – The Commissioner of  
19           Banks.

20           ~~(f)(6) "Deputy commissioner" shall mean the~~ Deputy commissioner. – The deputy  
21           commissioner of banks.

22           (7) Installment paper dealer. – A person who buys or discounts notes or other  
23           evidences of debt secured, at the time the debt is incurred, by personal  
24           property located in this State.

25           ~~(g)(8) "License" shall mean the~~ License. – The certificate issued by the  
26           Commissioner under the authority of this Article to conduct a consumer  
27           finance business.

28           ~~(h)(9) "Licensee" shall mean a~~ Licensee. – A person to whom one or more licenses  
29           have been issued.

30           ~~(i)(10) "Loanable assets" shall mean cash or bank deposits or installment loans~~  
31           ~~made as a licensee pursuant to this Article or installment loans made as a~~  
32           ~~licensee pursuant to the Article which this Article supersedes or such other~~  
33           ~~loans payable on an installment basis as the Commissioner of Banks may~~  
34           ~~approve, or any combination of two or more thereof.~~ Loanable assets. – Cash,  
35           bank deposits, installment loans, or any combination of these.

36           ~~(j)(11) "Person" shall include any person,~~ Person. – An individual, a firm, a  
37           partnership, association or corporation, an association, a limited liability  
38           company, a corporation, or another group acting as a unit."

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

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

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

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

49    **"§ 53-191. Businesses exempted.**

50           ~~Nothing in this~~ This Article shall be construed to does not apply to any person, firm or  
51           ~~corporation~~ person doing business under the authority of any law of this State or of the United

1 States relating to banks, trust companies, savings and loan associations, cooperative credit  
 2 unions, agricultural credit corporations or associations organized under the laws of North  
 3 Carolina, production credit associations organized under the ~~act of Congress known as the~~  
 4 federal Farm Credit Act of 1933, pawnbrokers lending or advancing money on specific articles  
 5 of personal property, industrial banks, ~~the business of negotiating businesses that negotiate or~~  
 6 solicit loans on real estate as defined in G.S. 105-41, ~~agent for another for compensation, nor to~~  
 7 or installment paper dealers as defined in G.S. 105-83 ~~other than persons, firms and~~  
 8 ~~corporations other than persons~~ engaged in the business of accepting fees for endorsing or  
 9 otherwise securing loans or contracts for the repayment of loans."

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

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

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

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

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

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

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

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

37 ...."

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

## 40 PART X. FRANCHISE AND CORPORATE INCOME TAX CONFORMING 41 CHANGES

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

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

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

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

1 installment of the credit is claimed. This election is binding. Any carryforwards of the credit  
2 must be claimed against the same tax."

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

4 "**§ 105-129.50. Definitions.**

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

7 (1) Development tier one area. – Defined in G.S. 143B-437.08.

8 (1a) Establishment. – Defined in 29 C.F.R. § 1904.46, as it existed on January 1,  
9 2002.

10 (2) Full-time job. – Defined in G.S. 105-129.81.

11 (3) Reserved.

12 (4) North Carolina university research expenses. – Any amount the taxpayer  
13 paid or incurred to a research university for qualified research performed in  
14 this State or basic research performed in this State.

15 (4a) Participating community college. – A community college, as defined in  
16 G.S. 115D-2, that offers an associate in applied science degree in simulation  
17 and game development.

18 (5) Period of measurement. – Defined in the Small Business Size Regulations of  
19 the federal Small Business Administration.

20 (6) Qualified North Carolina research expenses. – Qualified research expenses,  
21 other than North Carolina university research expenses, for research  
22 performed in this State.

23 (7) Receipts. – Defined in the Small Business Size Regulations of the federal  
24 Small Business Administration.

25 (8) Related person. – ~~Defined in G.S. 105-163.010.~~ A person described in one of  
26 the relationships set forth in section 267(b) or 707(b) of the Code.

27 (9) Research university. – An institution of higher education that meets one or  
28 both of the following conditions:

29 a. It is classified as one of the following in the most recent edition of  
30 "A Classification of Institutions of Higher Education", the official  
31 report of The Carnegie Foundation for the Advancement of  
32 Teaching:

33 1. Doctoral/Research Universities, Extensive or Intensive.

34 2. Masters Colleges and Universities, I or II.

35 3. Baccalaureate Colleges, Liberal Arts or General.

36 b. It is a constituent institution of The University of North Carolina.

37 (10) Small business. – A business whose annual receipts, combined with the  
38 annual receipts of all related persons, for the applicable period of  
39 measurement did not exceed one million dollars (\$1,000,000)."

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

41 "**§ 105-129.51. Administration; Additional eligibility requirements and sunset.**

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

46 (1) Wage. – For research performed at an establishment in a development tier  
47 two or development tier three area, the taxpayer must meet the general wage  
48 standard or, if applicable, the zone wage standard published by the Secretary  
49 of Commerce under G.S. 143B-437.010A. For research performed at an  
50 establishment in a development tier one area, no wage standard applies.

1           (2) Health insurance. – The health insurance standard set in  
2 G.S. 143B-437.010A applies to all the jobs at an establishment for which a  
3 credit or a carryforward of a credit is claimed under this Article. If a  
4 taxpayer qualifies for a credit under this Article and then fails to meet the  
5 health insurance standard during a taxable year, the credit expires, and the  
6 taxpayer may not take any remaining carryforwards of the credit.

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

15           (b) Sunset. – This Article is repealed for taxable years beginning on or after January 1,  
16 2014.

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

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

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

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

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

31           (1) Affiliated group. – A group that includes a corporation, all other  
32 corporations that are affiliates or subsidiaries of that corporation, and all  
33 other corporations that are affiliates or subsidiaries of another corporation in  
34 the group.

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

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

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

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

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

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

47           "(h) Limitation on Credits. – The credits provided in this section are allowed against the  
48 tax levied in this Part and the ~~franchise-privilege tax~~ levied in Article 3 of this Chapter. A  
49 taxpayer may claim a credit against only one of the taxes against which it is allowed. Each  
50 taxpayer must elect the tax against which the credit will be taken when filing the return on

1 which the first installment of the credit is claimed. This election is binding. All installments and  
2 carryforwards of the credit must be taken against the same tax.

3 In order for a member of an affiliated group to take a credit, each member of the affiliated  
4 group that is required to file a return under this Part or under Article 3 of this Chapter must  
5 attach a schedule to its return that shows for every member of the group the amount of the  
6 credit taken by it, the tax against which it is taken, and the amount of the resulting tax. In  
7 addition, each member must provide any other documentation required by the Secretary.

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

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

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

14 "**§ 105-230. ~~Charter suspended for failure to report.~~Suspension of business entity's right**  
15 **to do business for noncompliance.**

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

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

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

36 "**§ 105-232. ~~Rights restored; receivership and liquidation.~~Procedure for reinstatement**  
37 **after suspension of business entity's authority to do business for**  
38 **noncompliance.**

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

1 the rights of any person who reasonably relied, to that person's prejudice, upon the suspension.  
2 ~~The Secretary of State shall immediately notify by mail the corporation or limited liability~~  
3 ~~company of the reinstatement.~~The suspension under G.S. 105-230 of the authority of a business  
4 entity to transact business terminates when the business entity resolves the noncompliance that  
5 resulted in the suspension and pays a reinstatement fee of fifty dollars (\$50.00) to the Secretary  
6 of Revenue. The Secretary of Revenue must notify the Secretary of State when a business  
7 entity whose authority is suspended resolves the noncompliance. The Secretary of State must  
8 then immediately reinstate the business entity's authority and must notify the business entity by  
9 mail of the reinstatement. Reinstatement of a business entity's authority to do business relates  
10 back to and takes effect as of the date of the suspension, subject to the rights of a person who  
11 reasonably relied to that person's prejudice on the suspension.

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

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

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

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

45 **"§ 143B-437.08A. Wage, health insurance, and other standards applicable to economic**  
46 **development incentives.**

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

50 (1) General wage standard. – A job meets the general wage standard if it pays an  
51 average weekly wage that is at least equal to the lesser of one hundred ten

1 percent (110%) of the average wage for all insured private employers in the  
2 State and ninety percent (90%) of the average wage for all insured private  
3 employers in the county.

4 (2) Zone wage standard. – A job that is located within an urban progress zone or  
5 an agrarian growth zone in a development tier two or tier three area satisfies  
6 the wage standard if it pays an average weekly wage that is at least equal to  
7 ninety percent (90%) of the lesser of the average wage for all insured private  
8 employers in the State and the average wage for all insured private  
9 employers in the county.

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

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

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

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

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

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

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

47 "(a) Creation and Purpose of Fund. – There is created in the Department of Commerce  
48 the Industrial Development Fund to provide funds to assist the local government units of the  
49 most economically distressed counties in the State in creating and retaining jobs in certain  
50 industries. The Department of Commerce shall adopt rules providing for the administration of



1 the program. Those rules shall include the following provisions, which shall apply to each grant  
2 from the fund:

3 ...

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

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

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

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

12 (2a) Company headquarters. – ~~Defined in G.S. 105-129.81.~~ A corporate,  
13 subsidiary, or regional managing office, as defined by NAICS in United  
14 States industry 551114, that is responsible for strategic or organizational  
15 planning and decision making for the business on an international, national,  
16 or multistate regional basis.

17 ...

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

20 a. Data processing industry group 518.

21 b. Software publishers industry group 5112.

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

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

24 ...

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

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

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

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

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

## 34 **PART XI. INDIVIDUAL INCOME TAX CONFORMING CHANGES**

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

### 36 **"§ 105-131.2. Adjustment and characterization of income.**

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

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

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

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

### 44 **"§ 105-131.5. Part-year resident shareholder.**

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

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

1       "(c) An S Corporation ~~shall~~must file with the Department, on a form prescribed by the  
2 Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a return  
3 and make timely payment of all taxes imposed by this State on the shareholder with respect to  
4 the income of the S Corporation, and (ii) to be subject to personal jurisdiction in this State for  
5 purposes of the collection of any unpaid income tax, together with related interest and  
6 penalties, owed by the nonresident shareholder. If the corporation fails to timely file an  
7 agreement required by this subsection on behalf of any of its nonresident shareholders, then the  
8 corporation ~~shall~~must at the time specified in subsection (d) of this section pay to the  
9 Department on behalf of each nonresident shareholder with respect to whom an agreement has  
10 not been timely filed an estimated amount of the tax due the State. The estimated amount of tax  
11 due the State ~~shall be~~is computed at the ~~rates~~rate levied in ~~G.S. 105-134.2(a)(3)~~  
12 G.S. 105-153.7 on the shareholder's pro rata share of the S Corporation's income attributable to  
13 the State reflected on the corporation's return for the taxable period. An S Corporation may  
14 recover a payment made pursuant to the preceding sentence from the shareholder on whose  
15 behalf the payment was made."

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

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

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

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

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

38       "**§ 105-159. Federal corrections.**

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

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

49       "**§ 105-163.1. Definitions.**

50       The following definitions apply in this Article:

51       ...

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

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

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

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

...."

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

**"§ 105-163.22. Reciprocity.**

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

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

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

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

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

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

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

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

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

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

1       "(a) All child support collection and paternity determination services provided under this  
2 Article to recipients of public assistance shall be made available to any individual not receiving  
3 public assistance in accordance with federal law and as contractually authorized by the  
4 nonrecipient, upon proper application and payment of a nonrefundable application fee of  
5 twenty-five dollars (\$25.00). The fee shall be reduced to ten dollars (\$10.00) if the individual  
6 applying for the services is indigent. An indigent individual is an individual whose gross  
7 income does not exceed one hundred percent (100%) of the federal poverty guidelines issued  
8 each year in the Federal Register by the U.S. Department of Health and Human Services. For  
9 the purposes of this subsection, the term "gross income" has the same meaning as defined in  
10 G.S. 105-134.1, section 61 of the Code, and the term "Code" has the same meaning as defined  
11 in G.S. 105-228.90.

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

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

21       "(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341,  
22 acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to  
23 this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A  
24 State agency with management responsibility for land acquired pursuant to this Article may  
25 enter into a management agreement or lease with a county, city, town, or private nonprofit  
26 organization ~~qualified under G.S. 105-151.12 and G.S. 105-130.34 and~~ certified under section  
27 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement  
28 or lease shall be executed by the Department of Administration pursuant to G.S. 143-341."

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

30       "**§ 113A-231. Program to accomplish conservation purposes.**

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

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

40       "**§ 113A-232. Conservation Grant Fund.**

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

49       (b) Fund Sources. – The Conservation Grant Fund shall consist of any monies  
50 appropriated to it by the General Assembly and any monies received from public or private  
51 sources. Unexpended monies in the Fund that were appropriated from the General Fund by the

1 General Assembly shall revert at the end of the fiscal year unless the General Assembly  
2 otherwise provides. Unexpended monies in the Fund from other sources shall not revert and  
3 shall remain available for expenditure in accordance with this Article.

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

7 (1) ~~possess~~ Possess or have a high potential to possess ecological ~~value, must be~~  
8 value.

9 (2) Be reasonably restorable, and must qualify for tax credits under  
10 G.S. 105-130.34 or G.S. 105-151.12 restorable.

11 (3) Be useful for one or more of the following purposes:

12 a. Public beach access or use.

13 b. Public access to public waters or trails.

14 c. Fish and wildlife conservation.

15 d. Forestland or farmland conservation.

16 e. Watershed protection.

17 f. Conservation of natural areas as that term is defined in  
18 G.S. 113A-164.3(3).

19 g. Conservation of predominantly natural parkland.

20 (4) Be donated in perpetuity to and accepted by the State, a local government, or  
21 a body that is both organized to receive and administer lands for  
22 conservation purposes and qualified to receive charitable contributions under  
23 G.S. 105-130.9. Land required to be dedicated pursuant to local  
24 governmental regulation or ordinance and dedications made to increase  
25 building density levels permitted under a regulation or ordinance do not  
26 qualify.

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

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

35 (1) The administrative costs of the Department in administering the Fund.

36 (2) Conservation grants made in accordance with this Article.

37 (3) To establish an endowment account, the interest from which will be used for  
38 a purpose described in G.S. 113A-233(a)."

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

40 "**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

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

43 (1) Reimbursement for total or partial transaction costs for a donation of real  
44 property or an interest in real property from an individual or corporation  
45 satisfying either of the following:

46 a. Insufficient financial ability to pay all costs or insufficient taxable  
47 income to allow these costs to be included in the donated value.

48 b. Insufficient tax burdens to allow these costs to be offset by ~~the value~~  
49 ~~of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by~~  
50 charitable deductions.

51 (2) Management support, including initial baseline inventory and planning.

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

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

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

## 14 **PART XII. SALES TAX CONFORMING CHANGES**

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

16 G.S. 106-507

17 G.S. 106-516

18 G.S. 106-517

19 G.S. 106-518

20 G.S. 106-519

21 G.S. 106-520

22 G.S. 140-10.1

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

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

### 25 **"§ 105-164.10. Retail bracket system.**

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

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

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

39 ...."

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

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

49 ...."

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

1 "(c) Special Mobile Equipment. – A person who purchases and uses motor fuel to  
2 operate special mobile equipment off-highway may receive a quarterly refund, for the excise  
3 tax paid during the preceding quarter, at a rate equal to the flat cents-per-gallon rate plus the  
4 variable cents-per-gallon rate in effect during the quarter for which the refund is claimed, less  
5 the amount of sales and use tax ~~or privilege tax~~ due on the fuel under this Chapter, as  
6 determined in accordance with G.S. 105-449.107(c). An application for a refund must be made  
7 in accordance with this Part."

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

9 **"§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles with  
10 power attachments.**

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

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

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

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

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

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

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

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

17           This subsection applies only to the following governmental entities:

18           ...."

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

### 20 21 **PART XIII. LOCAL GOVERNMENT DISTRIBUTION CONFORMING CHANGES**

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

23 **"§ 153A-134. Regulating and licensing businesses, trades, etc.**

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

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

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

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

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

39 **"§ 153A-156. ~~Gross receipts tax on short-term leases or rentals.~~ Motor vehicle gross**  
40 **receipts tax in lieu of property tax."**

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

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

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

49 **"§ 160A-194. Regulating and licensing businesses, trades, etc.**

50           A city may by ordinance, subject to the general law of the State, regulate and license  
51 occupations, businesses, trades, professions, and forms of amusement or entertainment and



1 prohibit those that may be inimical to the public health, welfare, safety, order, or convenience.  
2 In licensing trades, occupations, and professions, the city may, consistent with the general law  
3 of the State, require applicants for licenses to be examined and charge a reasonable fee ~~therefor~~  
4 ~~for the examination. Nothing in this section shall impair the city's power to levy privilege~~  
5 ~~license taxes on occupations, businesses, trades, professions, and other activities pursuant to~~  
6 ~~G.S. 160A-211.~~

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

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

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

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

15 "**§ 160A-215.1. ~~Gross receipts tax on short-term leases or rentals.~~Motor vehicle gross**  
16 **receipts tax in lieu of property tax.**"

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

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

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

#### 26 **PART XIV. EFFECTIVE DATE**

27 **SECTION 14.** Except as otherwise provided, this act is effective when it becomes  
28 law.  
29