

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

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HOUSE BILL 1224
Senate Finance Committee Substitute Adopted 7/16/14

Short Title: Local Sales Tax for Education/Econ. Dev Chngs. (Public)

Sponsors:

Referred to:

May 28, 2014

1 A BILL TO BE ENTITLED
2 AN ACT TO LIMIT THE TOTAL LOCAL GOVERNMENT SALES AND USE TAX RATE
3 TO TWO AND ONE-HALF PERCENT; TO ALLOW COUNTIES TO USE A PORTION
4 OF THE PROCEEDS OF THE LOCAL GOVERNMENT SALES AND USE TAX FOR
5 PUBLIC TRANSPORTATION OR FOR PUBLIC EDUCATION; AND TO MAKE
6 VARIOUS CHANGES TO TAX AND ECONOMIC DEVELOPMENT LAWS.

7 The General Assembly of North Carolina enacts:

8
9 **PART I. LOCAL OPTION SALES TAX FOR EDUCATION**

10 **SECTION 1.1.** Subchapter VIII of Chapter 105 of the General Statutes is amended
11 by adding a new Article to read:

12 "Article 43A.

13 "County Sales and Use Tax for Public Education.

14 "**§ 105-512.1. Short title; purpose.**

15 This Article is the Local Government Sales and Use Tax for Public Education. Article 43 of
16 this Chapter and this Article give the counties of this State an opportunity to obtain an
17 additional source of revenue with which to meet their needs. A county may choose to use this
18 source of revenue to finance local public transportation systems, as provided in Article 43 of
19 this Chapter, or for public education needs, as provided in this Article. A tax levied under this
20 Article may not be in effect in a county at the same time as a tax levied under Article 43 of this
21 Chapter.

22 "**§ 105-512.2. Levy.**

23 (a) Referendum. – A tax levied under this Article must be approved in a referendum.
24 The board of commissioners of a county may direct the county board of elections to conduct an
25 advisory referendum on the question of whether to levy a local sales and use tax in the county
26 at a rate of up to one-half percent (1/2%). The applicable rate must meet all of the conditions
27 listed in this subsection. The election shall be held in accordance with the procedures of
28 G.S. 163-287. The conditions are:

29 (1) It must be in an increment of one-quarter percent (1/4%).

30 (2) It must be at a rate that, if levied, would result in a total local sales and use
31 tax rate in the county of two and one-half percent (2 1/2%).

32 (b) Ballot Question. – The form of the question to be presented on a ballot for a special
33 election concerning the levy of the tax authorized by this Article shall be:

34 "[] FOR [] AGAINST



1 Local sales and use tax at the [applicable rate stated in both words and as a
2 percentage] in addition to the current local sales and use taxes, to be used only for public
3 education."

4 (c) Authority. – If the majority of those voting in a referendum held pursuant to this
5 Article vote for the levy of the tax, the board of commissioners of the county may, by
6 resolution and after 10 days' public notice, levy a local sales and use tax at the rate specified in
7 the ballot.

8 **"§ 105-512.3. Administration.**

9 Except as provided in this Article, the adoption, levy, collection, administration, and repeal
10 of these additional taxes must be in accordance with Article 39 of this Chapter. In applying the
11 provisions of Article 39 of this Chapter to this Article, references to "this Article" mean
12 "Article 43A of Chapter 105 of the General Statutes." G.S. 105-468.1 is an administrative
13 provision that applies to this Article. A tax levied under this Article does not apply to the sales
14 price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a
15 bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the
16 amount allocated to a county between the county and the municipalities within the county.

17 **"§ 105-512.4. Use.**

18 Counties may use the proceeds of a tax levied under this Article only for the following
19 purposes:

- 20 (1) Public school capital outlay purposes, as defined in G.S. 115C-426(f) or to
21 retire any indebtedness incurred by the county for these purposes.
- 22 (2) Salaries of classroom teachers, salaries of classroom teacher assistants, and
23 supplements of classroom teacher salaries. For the purposes of this section, a
24 classroom teacher is an employee of a local board of education employed as
25 a teacher who spends at least seventy percent (70%) of his or her work time
26 in classroom instruction and a classroom teacher assistant is an employee of
27 a local board of education employed as a teacher assistant who spends at
28 least seventy percent (70%) of his or her work time assisting in a classroom.
- 29 (3) Financial support of community colleges, including funds to supplement
30 State financial support of community colleges."

31 **SECTION 1.2.(a)** G.S. 115C-429(b) reads as rewritten:

32 "(b) The board of county commissioners shall complete its action on the school budget
33 on or before July 1, or such later date as may be agreeable to the board of education. The
34 commissioners shall determine the amount of county revenues to be appropriated in the county
35 budget ordinance to the local school administrative unit for the budget year. The board of
36 county commissioners may, in its discretion, allocate part or all of its appropriation by purpose,
37 function, or project as defined in the uniform budget format. For allocations made by the board
38 of county commissioners for the purpose of or for a function related to instructional services,
39 the board of county commissioners may direct the amount of funds to be used for salaries of
40 classroom teachers, salaries of classroom teacher assistants, and supplements of classroom
41 teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local
42 board of education employed as a teacher who spends at least seventy percent (70%) of his or
43 her work time in classroom instruction and a classroom teacher assistant is an employee of a
44 local board of education employed as a teacher assistant who spends at least seventy percent
45 (70%) of his or her work time assisting in a classroom."

46 **SECTION 1.2.(b)** G.S. 115C-433(b) reads as rewritten:

47 "(b) If the board of county commissioners allocates part or all of its appropriations
48 pursuant to G.S. 115C-429(b), the board of education must obtain the approval of the board of
49 county commissioners for an amendment to the budget that does any of the following:

- 50 (1)(i) ~~increases~~ Increases or decreases expenditures from the capital outlay fund
51 for projects listed in G.S. 115C-426(f)(1) or ~~(2), or (ii)-(2).~~

1 (2) ~~increases—Increases~~ or decreases the amount of county appropriation
2 allocated to a purpose or function by twenty-five percent (25%) or more
3 from the amount contained in the budget ordinance adopted by the board of
4 county commissioners: ~~Provided, provided,~~ that at its discretion, the board
5 may in its budget ordinance specify a lesser percentage, so long as such
6 percentage is not less than ~~ten percent (10%)—ten percent (10%).~~

7 (3) Decreases the amount of funds allocated for salaries of classroom teachers,
8 salaries of classroom teacher assistants, and supplements of classroom
9 teacher salaries. For the purposes of this section, a classroom teacher is an
10 employee of a local board of education employed as a teacher who spends at
11 least seventy percent (70%) of his or her work time in classroom instruction
12 and a classroom teacher assistant is an employee of a local board of
13 education employed as a teacher assistant who spends at least seventy
14 percent (70%) of his or her work time assisting in a classroom."

15 **SECTION 1.3.(a)** G.S. 115D-55(a) reads as rewritten:

16 "(a) Approval of Budget by Local Tax-Levying Authority. – By a date fixed by the local
17 tax-levying authority, the budget shall be submitted to the local tax-levying authority for
18 approval of that portion within its authority as stated in G.S. 115D-54(b). On or before July 1,
19 or such later date as may be agreeable to the board of trustees, but in no instance later than
20 September 1, the local tax-levying authority shall determine the amount of county revenue to
21 be appropriated to an institution for the budget year. The local tax-levying authority may
22 allocate part or all of an appropriation by purpose, function, or project as defined in the budget
23 manual as adopted by the State Board of Community Colleges. The local tax-levying authority
24 may direct the use of funds appropriated to the institution derived from a tax levied under
25 Article 43A of Chapter 105 of the General Statutes.

26 The local tax-levying authority shall have full authority to call for all books, records, audit
27 reports, and other information bearing on the financial operation of the institution except
28 records dealing with specific persons for which the persons' rights of privacy are protected by
29 either federal or State law.

30 Nothing in this Article shall be construed to place a duty on the local tax-levying authority
31 to fund a deficit incurred by an institution through failure of the institution to comply with the
32 provisions of this Article or rules and regulations issued pursuant hereto."

33 **SECTION 1.3.(b)** G.S. 115D-58(b) reads as rewritten:

34 "(b) If the local tax-levying authority allocates part or all of an appropriation pursuant to
35 G.S. 115D-55, the board of trustees must obtain approval of the local tax-levying authority for
36 an amendment to the budget which does any of the following:

37 (1) ~~increases—Increases~~ or decreases the amount of that appropriation allocated to
38 a purpose, function, or project by twenty-five percent (25%) or more from
39 the amount contained in the budget ordinance adopted by the local
40 tax-levying authority or such lesser percentage as specified by the local
41 tax-levying authority in the original budget ordinance, so long as such
42 percentage is not less than ten percent (10%).

43 (2) Decreases the amount of the appropriation directed by the tax-levying
44 authority for a specific use from funds appropriated to the institution derived
45 from a tax levied under Article 43A of Chapter 105 of the General Statutes."

46 **SECTION 1.4.(a)** G.S. 105-506 reads as rewritten:

47 "**§ 105-506. Short title; purpose.**

48 This Article is the Local Government Public Transportation Sales Tax Act and may be cited
49 by that name. This Article and Article 43A of this Chapter gives—give the counties and
50 transportation authorities—of this State an opportunity to obtain an additional source of revenue
51 with which to meet their ~~needs for~~ needs. Counties and transportation authorities may choose to

1 use this source of revenue to ~~finaneing~~ finance local public transportation systems. ~~systems~~
2 under this Article, or to finance public education needs, as provided in Article 43A of this
3 Chapter. A tax levied under this Article may not be in effect in a county at the same time as a
4 tax levied under Article 43A of this Chapter. ~~It provides them with authority to levy sales and~~
5 ~~use taxes. All such taxes~~ A tax levied under this Chapter must be approved in a referendum."

6 **SECTION 1.4.(b)** Part 1 of Article 43 of Chapter 105 of the General Statutes is
7 amended by adding a new section to read:

8 **"§ 105-506.3. Tax rate.**

9 (a) Rate. – The applicable rate of local sales and use tax that may be levied under this
10 Article must meet all of the following conditions:

11 (1) It must be in an increment of one-quarter percent (1/4%).

12 (2) It must be at a rate that, if levied, would result in a total local sales and use
13 tax rate in the county or special district of two and one-half percent (2
14 1/2%).

15 (b) Cap. – Except as provided in this subsection, a county's local sales and use tax rate
16 may not exceed two and one-half percent (2.5%). A county's local sales and use tax rate may
17 exceed two and one-half percent (2.5%) if the county conducted one or more advisory
18 referendums on or before December 31, 2012, in which a majority of the voters approved the
19 levy of a local sales and use tax resulting in a total local sales and use tax rate in the county of
20 two and three-quarters percent (2.75%). In no event may a county's local sales and use tax rate
21 exceed two and three-quarters percent (2.75%). If a county's local sales and use tax rate is two
22 and three-quarters percent (2.75%) on April 1, 2013, and the county repeals the levy of a tax
23 authorized under Subchapter VIII of this Chapter so that the county's local sales and use tax
24 rate falls below two and three-quarters percent (2.75%), the county may not enact a local sales
25 and use tax under this Subchapter that results in a county local sales and use tax rate that
26 exceeds two and one-half percent (2.5%)."

27 **SECTION 1.4.(c)** G.S. 105-507.1 reads as rewritten:

28 **"§ 105-507.1. Local election on adoption of sales and use tax.**

29 (a) Resolution. – The board of commissioners of a county may direct the county board
30 of elections to conduct an advisory referendum within the county on the question of whether a
31 local sales and use tax at the rate of up to one-half percent (1/2%) may be levied in accordance
32 with this Part. The applicable rate must be in accordance with G.S. 105-506.3. The election
33 shall be held in accordance with the procedures of G.S. 163-287. The board of commissioners
34 shall hold a public hearing on the question at least 30 days before the date the election is to be
35 held.

36 (b) Ballot Question. – The form of the question to be presented on a ballot for a special
37 election concerning the levy of a tax authorized by this Article shall be:

38 "[] FOR [] AGAINST

39 ~~One-half percent (1/2%)~~ [The applicable rate stated in both words and as a percentage] local
40 sales and use taxes, in addition to the current local sales and use taxes, to be used only for
41 public transportation systems.""

42 **SECTION 1.4.(d)** G.S. 105-507.2 reads as rewritten:

43 **"§ 105-507.2. Levy and collection of sales and use tax.**

44 If the majority of those voting in a referendum held pursuant to G.S. 105-507.1 vote for the
45 levy of the tax, the board of commissioners of the county may, by resolution, levy ~~one-half~~
46 ~~percent (1/2%)~~ local sales and use taxes a local sales and use tax at the rate specified in the ballot
47 in addition to any other State and local sales and use taxes levied pursuant to law. Except as
48 provided in this Part, the adoption, levy, collection, administration, and repeal of these
49 additional taxes shall be in accordance with Article 39 of this Chapter. In applying the
50 provisions of Article 39 of this Chapter to this Part, references to "this Article" mean "Part 1 of
51 Article 43 of Chapter 105 of the General Statutes"."

1 **SECTION 1.4.(e)** G.S. 105-509 reads as rewritten:

2 "**§ 105-509. Local election on adoption of sales and use tax – regional public**
3 **transportation authority.**

4 ...

5 (b) Resolution. – The board of trustees of the regional public transportation authority
6 may, if all of the conditions listed in this subsection have been met, direct the respective county
7 board or boards of elections to conduct an advisory referendum within the special district on
8 the question of whether a local sales and use tax at the rate of up to one-half percent (1/2%)
9 may be levied within the district in accordance with this Part. The applicable rate must be in
10 accordance with G.S. 105-506.3. The tax may not be levied without voter approval. The
11 election shall be held on a date jointly agreed upon by the authority, the county board or boards
12 of commissioners, and the county board or boards of elections and shall be held on a date
13 permitted by and in accordance with the procedures of G.S. 163-287. The conditions are as
14 follows:

15 (1) The board of trustees has obtained approval to conduct a referendum by a
16 vote of the following:

17 a. A majority vote of each of the county boards of commissioners
18 within the special district, if it is a multicounty special district.

19 b. A majority of the county board of commissioners within the special
20 district, if it is a single-county special district.

21 (2) A public hearing is held on the question by the board or boards of
22 commissioners at least 30 days before the date the election is to be held.

23 (c) Ballot Question. – The form of the question to be presented on a ballot for a special
24 election concerning the levy of a tax authorized by this Article shall be:

25 " FOR AGAINST

26 ~~One-half percent (1/2%)~~ The applicable rate stated in both words and as a percentage
27 local sales and use taxes, in addition to the current local sales and use taxes, to be used only for
28 public transportation systems."
29 "

30 **SECTION 1.4.(f)** G.S. 105-509.1 reads as rewritten:

31 "**§ 105-509.1. Levy and collection of sales and use tax – regional public transportation**
32 **authority.**

33 If the majority of those voting in a referendum held pursuant to G.S. 105-509 vote for the
34 levy of the tax, the transportation authority may, by resolution, levy ~~one-half percent (1/2%)~~
35 ~~local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot within the
36 special district, in addition to any other State and local sales and use taxes levied pursuant to
37 law. In determining the results of the election in a multicounty district, all the counties of the
38 district shall be considered to be one unit but also must receive a majority vote in each county,
39 except that if the referendum is passed in one or more but not all of the counties, the counties in
40 which the referendum was not approved are removed from the special district upon certification
41 of the election result and the county or counties that approved the referendum shall remain in
42 the special district. Except as provided in this Part, the adoption, levy, collection,
43 administration, and repeal of these additional taxes shall be in accordance with Article 39 of
44 this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references
45 to "this Article" mean "Part 4 of Article 43 of Chapter 105 of the General Statutes." Any repeal
46 of the tax shall be done by the same procedure as its enactment under this section, and in a
47 multicounty district a petition for repeal under G.S. 105-473 shall be judged by the total votes
48 in all the counties in the district."

49 **SECTION 1.4.(g)** G.S. 105-510 reads as rewritten:

50 "**§ 105-510. Local election on adoption of sales and use tax – regional transportation**
51 **authority.**

1 ...
2 (b) Resolution. – The board of trustees of the regional transportation authority may, if
3 all of the conditions listed in this subsection have been met, direct the respective county board
4 or boards of elections to conduct an advisory referendum within the special district on the
5 question of whether a local sales and use tax at the rate of up to one-half percent (1/2%) may be
6 levied within the district in accordance with this Part. The applicable rate must be in
7 accordance with G.S. 105-506.3. The tax may not be levied without voter approval. The
8 election shall be held on a date jointly agreed upon by the authority, the county board or boards
9 of commissioners, and the county board or boards of elections and shall be held on a date
10 permitted by and in accordance with the procedures of G.S. 163-287. The conditions are as
11 follows:

- 12 (1) The board of trustees has obtained approval to conduct a referendum by a
13 vote of the following:
14 a. A majority vote of both of the county boards of commissioners
15 within the special district, if it is a multicounty special district.
16 b. A majority of the county board of commissioners within the special
17 district, if it is a single-county special district.
18 (2) A public hearing is held on the question by the board or boards of
19 commissioners at least 30 days before the date the election is to be held.

20 (c) Ballot Question. – The form of the question to be presented on a ballot for a special
21 election concerning the levy of a tax authorized by this Article shall be:

22 "[] FOR [] AGAINST

23 ~~One-half percent (1/2%)~~ [The applicable rate stated in both words and as a percentage]
24 local sales and use taxes, in addition to the current local sales and use taxes, to be used only for
25 public transportation systems."
26"

27 **SECTION 1.4.(h)** G.S. 105-510.1 reads as rewritten:

28 **"§ 105-510.1. Levy and collection of sales and use tax – regional transportation authority.**

29 If the majority of those voting in a referendum held pursuant to G.S. 105-510 vote for the
30 levy of the tax, the transportation authority may, by resolution, levy ~~one-half percent (1/2%)~~
31 ~~local sales and use taxes~~ a local sales and use tax at the rate specified in the ballot within the
32 special district, in addition to any other State and local sales and use taxes levied pursuant to
33 law. In determining the results of the election in a multicounty district, all the counties of the
34 district shall be considered to be one unit but also must receive a majority vote in each county,
35 except that if the referendum is passed in one but not both of the counties, the county in which
36 the referendum was not approved is removed from the special district upon certification of the
37 election result and the county that approved the referendum shall remain in the special district.
38 Except as provided in this Part, the adoption, levy, collection, administration, and repeal of
39 these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the
40 provisions of Article 39 of this Chapter to this Article, references to "this Article" mean "Part 5
41 of Article 43 of Chapter 105 of the General Statutes." Any repeal of the tax shall be done by the
42 same procedure as its enactment under this section, and in a multicounty district a petition for
43 repeal under G.S. 105-473 shall be judged by the total votes in all the counties in the district."

44 **SECTION 1.4.(i)** G.S. 105-511.2 reads as rewritten:

45 **"§ 105-511.2. Local election on adoption of sales and use tax.**

46 (a) Resolution. – The board of commissioners of a county may direct the county board
47 of elections to conduct an advisory referendum within the county on the question of whether a
48 local sales and use tax at ~~the rate of one-quarter percent (1/4%)~~ a rate of up to one-half percent
49 (1/2%) may be levied in accordance with this Part. The applicable rate must be in accordance
50 with G.S. 105-506.3. The election shall be held on a date jointly agreed upon by the boards and
51 shall be held on a date permitted by and in accordance with the procedures of G.S. 163-287.

1 The board of commissioners shall hold a public hearing on the question at least 30 days before
2 the date the election is to be held.

3 (b) Ballot Question. – The form of the question to be presented on a ballot for a special
4 election concerning the levy of a tax authorized by this Article shall be:

5 "[] FOR [] AGAINST

6 ~~One-quarter percent (1/4%)~~ [The applicable rate stated in both words and as a percentage]
7 local sales and use taxes, in addition to the current local sales and use taxes, to be used only for
8 public transportation systems."

9 **SECTION 1.4.(j)** G.S. 105-511.3 reads as rewritten:

10 **"§ 105-511.3. Levy and collection of sales and use tax.**

11 (a) Authority to Levy. – If the majority of those voting in a referendum held pursuant to
12 this Part vote for the levy of the tax, the board of commissioners of the county may, by
13 resolution, levy ~~one-quarter percent (1/4%) local sales and use taxes~~ a local sales and use tax
14 at the rate specified in the ballot in addition to any other State and local sales and use taxes levied
15 pursuant to law.

16 (b) Administration. – Except as provided in this Part, the adoption, levy, collection,
17 administration, and repeal of these additional taxes shall be in accordance with Article 39 of
18 this Chapter. In applying the provisions of Article 39 of this Chapter to this Part, references to
19 "this Article" mean "Part 6 of Article 43 of Chapter 105 of the General Statutes."

20 **SECTION 1.4.(k)** This section is effective when it becomes law.

21 **SECTION 1.5.(a)** G.S. 105-537 reads as rewritten:

22 "(a) Authority. – A tax levied under this Article must be approved in a referendum. If the
23 majority of those voting in a referendum held pursuant to this Article vote for the levy of the
24 tax, the board of county commissioners may, by resolution and after 10 days' public notice,
25 levy a local sales and use tax at a rate of one-quarter percent (0.25%).

26 ...

27 (e) Expiration. – A board of county commissioners may not direct the county board of
28 elections to conduct an advisory referendum on the question of whether to levy a local sales
29 and use tax in the county as provided in this Article on or after August 1, 2014."

30 **SECTION 1.5.(b)** This section is effective when it becomes law. Notwithstanding
31 G.S. 105-537(e), as enacted by this act, a county that meets both of the conditions listed in this
32 subsection, as of the date this act becomes law, may direct the county board of elections to
33 conduct an advisory referendum under this Article:

- 34 (1) The county has directed the county board of elections to put the question of
35 whether to levy a local sales and use tax in the county under this Article on
36 the ballot in a State, county, or municipal general election to be held in 2014.
37 (2) The total rate of local sales and use tax in the county is less than two and
38 one-half percent (2 1/2%).

39 **SECTION 1.6.** Except as otherwise provided, this Part is effective when it
40 becomes law.

41 **PART II. JMAC MODIFICATIONS**

42 **SECTION 2.(a)** G.S. 143B-437.012 reads as rewritten:

43 **"§ 143B-437.012. Job Maintenance and Capital Development Fund.**

44 ...

45 (d) Eligibility. – A business is eligible for consideration for a grant under this section if
46 it satisfies the conditions of either subdivision (1) or (2) of this subsection and satisfies ~~the~~
47 ~~conditions of both subdivisions (3) and subdivision (4) of this subsection:~~
48 conditions of both subdivisions (3) and subdivision (4) of this subsection:

- 49 (1) The business is a major employer. A business is a major employer if the
50 business meets the following requirements:

- 1 a. The Department certifies that the business has invested or intends to
2 invest at least two hundred million dollars (\$200,000,000) of private
3 funds in improvements to real property and additions to tangible
4 personal property in the project within a six-year period beginning
5 with the time the investment commences.
- 6 b. The business employs at least 2,000 full-time employees or
7 equivalent full-time contract employees at the project that is the
8 subject of the grant at the time the application is made, and the
9 business agrees to maintain at least 2,000 full-time employees or
10 equivalent full-time contract employees at the project for the full
11 term of the grant agreement.
- 12 c. The project is located in a development tier one area at the time the
13 business applies for a grant.
- 14 (2) The business is a large manufacturing employer. A business is a large
15 manufacturing employer if the business meets the following requirements:
- 16 a. The business is in manufacturing, as defined in G.S. 105-129.81, and
17 is converting its manufacturing process to change the product it
18 ~~manufactures~~ manufactures or is investing in its manufacturing
19 process by enhancing pollution controls or transitioning the
20 manufacturing process from using coal to using natural gas for the
21 purpose of becoming more energy efficient or reducing emissions.
- 22 b. The Department certifies that the business has invested or intends to
23 invest at least ~~sixty-five~~fifty million dollars
24 ~~(\$65,000,000)~~(\$50,000,000) of private funds in improvements to real
25 property and additions to tangible personal property in the project
26 within a ~~three-year~~five-year period beginning with the time the
27 investment commences.
- 28 c. The business meets one of the following employment requirements:
- 29 1. If in a development tier one area, the business employs at
30 least 320 full-time employees at the project that is the subject
31 of the grant at the time the application is made, and the
32 business agrees to maintain at least 320 full-time employees
33 at the project for the full term of the grant.
- 34 2. If in a development tier two area with a population of less
35 than 60,000 as of July 1, 2013, the business employs at least
36 800 full-time employees or equivalent full-time contract
37 employees at the project that is the subject of the grant at the
38 time the application is made, and the business agrees to
39 maintain at least 800 full-time employees or equivalent
40 full-time contract employees at the project for the full term of
41 the grant.
- 42 (3) ~~The project is located in a development tier one area at the time the business~~
43 ~~applies for a grant.~~
- 44 (4) All newly hired employees of the business must be citizens of the United
45 ~~States~~States or have proper identification and documentation of their
46 authorization to reside and work in the United States.
- 47 ...
- 48 (n) Limitations. – The Department may enter into no more than five agreements under
49 this section. The total aggregate cost of all agreements entered into under this section may not
50 exceed ~~sixty-nine million dollars (\$69,000,000)~~seventy-nine million dollars (\$79,000,000).

1 The total annual cost of an agreement entered into under this section may not exceed six
2 million dollars (\$6,000,000)."

3 **SECTION 2.(b)** This section becomes effective July 1, 2014.

4
5 **PART III. JOB CATALYST FUND**

6 **SECTION 3.(a)** G.S. 143B-437.50 reads as rewritten:

7 "Part 2G. Job ~~Development Investment Grant Program~~.Development.

8 **"§ 143B-437.50. Legislative findings and purpose.**

9 The General Assembly finds that:

- 10 (1) It is the policy of the State of North Carolina to stimulate economic activity
11 and to create new jobs for the citizens of the State by encouraging and
12 promoting the expansion of existing business and industry within the State
13 and by recruiting and attracting new business and industry to the State.

14"

15 **SECTION 3.(b)** G.S. 143B-437.51 reads as rewritten:

16 **"§ 143B-437.51. Definitions.**

17 The following definitions apply in this Part:

18 ...

- 19 (6) Full-time employee. – A person who is employed for consideration for at
20 least 35 hours a week, whose wages are subject to withholding under Article
21 4A of Chapter 105 of the General Statutes, and who is determined by the
22 Committee to be employed in a permanent position according to criteria it
23 develops in consultation with the Attorney General. The term does not
24 include any person who works as an independent contractor or on a
25 consulting basis for the business.

- 26 (6a) Full-time worker. – A person who is employed for consideration for at least
27 35 hours a week, whose wages are subject to withholding under Article 4A
28 of Chapter 105 of the General Statutes, and who is determined by the
29 Department to be employed in a permanent position. The term does not
30 include any person who works as an independent contractor or on a
31 consulting basis for the business.

- 32 (7) New employee. – A full-time employee or a full-time worker who represents
33 a net increase in the number of the business's employees or workers
34 statewide.

35"

36 **SECTION 3.(c)** G.S. 143B-437.52 reads as rewritten:

37 "Subpart A. Job Development Investment Grant Program.

38 **"§ 143B-437.52. Job Development Investment Grant Program.**

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

47"

48 **SECTION 3.(d)** The Revisor of Statutes is authorized to change references of "this
49 Part" in Subpart A of Part 2G of Article 10 of Chapter 143B of the General Statutes to "this
50 Subpart" as appropriate.

1 SECTION 3.(e) Part 2G of Article 10 of Chapter 143B of the General Statutes is
2 amended by adding a new Subpart to read:

3 "Subpart B. Job Catalyst Fund.

4 "§ 143B-437.67. Job Catalyst Fund.

5 (a) Creation and Purpose of Fund. – There is created in the Department of Commerce a
6 special, nonreverting account to be known as the Job Catalyst Fund to provide funds to a local
7 governmental unit for projects that result in the creation of jobs. The Secretary of Commerce is
8 solely responsible for the administration of the program and shall adopt guidelines applicable to
9 program administration. The guidelines shall include the following provisions, which shall
10 apply to each grant from the account:

11 (1) The funds are reserved for a project for which a business agrees to create and
12 maintain, for the greater of 10 years or a time period not less than the sum of
13 the full term of the grant plus five years, the number of new worker positions
14 at the project as follows:

15 a. For development tier one areas, 500 full-time workers.

16 b. For development tier two areas, 800 full-time workers.

17 c. For development tier three areas, 1,200 full-time workers.

18 (2) The funds are reserved for a project for which a business agrees to make an
19 investment at the project as provided in this subdivision. The investment
20 required by this subdivision must be private funds in improvements to real
21 property and additions to tangible personal property located at the project for
22 the greater of 10 years or a time period not less than the sum of the full term
23 of the grant plus five years. The investment must be commenced no later
24 than the time when the first disbursement is made to the business and must
25 be completed no later than five years from the time the first disbursement is
26 made to the business. Tangible personal property transferred by the business
27 or from a related member of the business from one area in the State to the
28 project is not considered an investment in tangible personal property located
29 at the project for purposes of this section. The Department shall certify the
30 amount of the investment made by the business at the project. The minimum
31 investment at the project the business agrees to make is as follows:

32 a. For development tier one areas, twenty million dollars (\$20,000,000).

33 b. For development tier two areas, thirty-five million dollars
34 (\$35,000,000).

35 c. For development tier three areas, fifty million dollars (\$50,000,000).

36 (3) The funds are (i) used to acquire or improve land or infrastructure, for
37 facility development, or for capital investment and (ii) used for
38 manufacturing projects. For purposes of this subdivision, "manufacturing" is
39 defined in G.S. 143B-437.01.

40 (4) The funds are provided to a local governmental unit, and the local
41 governmental unit matches a portion of the funds allocated by the
42 Department as provided in this subdivision. A local match may include cash,
43 fee waivers, in-kind services, the donation of assets, the provision of
44 infrastructure, or a combination. The local match requirement is as follows:

45 a. For development tier one areas, a local match of at least three dollars
46 (\$3.00) for every one hundred dollars (\$100.00) from the State is
47 required.

48 b. For development tier two areas, a local match of at least six dollars
49 (\$6.00) for every one hundred dollars (\$100.00) from the State is
50 required.

- 1 c. For development tier three areas, a local match of at least nine dollars
2 (\$9.00) for every one hundred dollars (\$100.00) from the State is
3 required.
- 4 (5) The funds are reserved for a project for which a business agrees to meet, for
5 the greater of 10 years or a time period not less than the sum of the full term
6 of the grant plus five years, the wage standard provided in this subdivision
7 for all full-time workers at the project. In making the wage calculation, all
8 full-time position jobs filled during the year for at least 1,600 hours are
9 included. The required wage standard is as follows:
- 10 a. For development tier one and two areas, an average weekly wage that
11 is at least equal to the lesser of one hundred percent (100%) of the
12 average wage for all insured private employers in the county.
- 13 b. For development tier three areas, an average weekly wage that is at
14 least equal to the lesser of one hundred ten percent (110%) of the
15 average wage for all insured private employers in the county.
- 16 (6) The funds are reserved for projects for which a business agrees to meet, for
17 the greater of 10 years or a time period not less than the sum of the full term
18 of the grant plus five years, a requirement to provide health insurance for all
19 full-time workers at the project. For purposes of this subdivision, a business
20 provides health insurance if it pays at least fifty percent (50%) of the
21 premiums for health care coverage that equals or exceeds the minimum
22 provisions of the basic health care plan of coverage recommended by the
23 Small Employer Carrier Committee pursuant to G.S. 58-50-125. A business
24 shall provide a certification that it continues to provide health insurance as
25 required by this subdivision.
- 26 (7) The funds are not used for a project at which is located, during the greater of
27 10 years or a time period not less than the sum of the full term of the grant
28 plus five years, a business that has received a notice of an overdue tax debt
29 and that overdue tax debt has not been satisfied or otherwise resolved.
- 30 (8) The funds are not used in favor of jobs created or property investments made
31 for which a business receives a tax credit under Article 3J of Chapter 105 of
32 the General Statutes.
- 33 (9) The funds are reserved for projects for a business that has no citations under
34 the Occupational Safety and Health Act that have become a final order
35 within the past three years for willful serious violations or for failing to abate
36 serious violations. In addition, the business must, for the greater of 10 years
37 or a time period not less than the sum of the full term of the grant plus five
38 years, have no citations under the Occupational Safety and Health Act that
39 have become a final order within the past three years for willful serious
40 violations or for failing to abate serious violations with respect to the project.
41 For purposes of this subsection, "serious violation" has the same meaning as
42 in G.S. 95-127.
- 43 (10) The funds are not used for a project that consists of a professional or
44 semiprofessional sports team or club or a project that consists solely of retail
45 facilities. If a project consists of both retail facilities and nonretail facilities,
46 only the portion of the project consisting of nonretail facilities is eligible for
47 a grant, and only full-time workers employed exclusively in the portion of
48 the project that represents nonretail facilities may be counted for purposes of
49 fulfilling the new worker position requirement. If a warehouse facility is part
50 of a retail facility and supplies only that retail facility, the warehouse facility
51 investment and full-time workers are not counted for purposes of the

1 requirements of this section. For the purposes of this Subpart, catalog
2 distribution centers are not retail facilities.

3 (b) Forfeiture. – If the business at the project fails to timely create and maintain the
4 required new jobs, to timely make the required level of investment, or to otherwise meet the
5 requirements of this section, the local governmental unit shall provide a means to recapture
6 from the business at the project an amount equal to the amount disbursed from the Fund for the
7 project, and the local governmental unit must reimburse the Fund for that disbursement.

8 (c) Records. – A business located at a project for which a grant was made from the
9 Fund shall maintain records and make available for inspection by the Secretary of Commerce
10 any records the Secretary considers necessary to determine and verify the business has met the
11 requirements of this section.

12 (d) Report. – The Department shall publish a report on the Job Catalyst Fund on or
13 before April 30 of each year. The Department shall submit the report electronically to the
14 House of Representatives Finance Committee, the Senate Finance Committee, the House of
15 Representatives Appropriations Subcommittee on Natural and Economic Resources, the Senate
16 Appropriations Committee on Natural and Economic Resources, and the Fiscal Research
17 Division. The report shall include the following:

- 18 (1) A listing of each grant awarded during the preceding calendar year,
19 including the name of the business locating at the project, a description of
20 the project, the term of the grant, and the liability under the grant.
- 21 (2) An update on the status of projects under grants awarded before the
22 preceding calendar year.
- 23 (3) The number and development tier area of new worker positions to be created
24 by projects with respect to which grants have been awarded.
- 25 (4) A listing of the employment level for all businesses located at projects with
26 respect to which grants have been awarded and any changes in those levels
27 from the level of the next preceding year.
- 28 (5) The wage levels of all new worker positions to be created at projects with
29 respect to which grants have been awarded, aggregated, and listed in
30 increments of ten thousand dollars (\$10,000) or other appropriate
31 increments.
- 32 (6) The number of awards made for projects for new businesses and the number
33 of awards made for projects for existing, expanding businesses in the
34 preceding calendar year.
- 35 (7) The environmental impact of businesses at projects with respect to which
36 grants have been awarded.
- 37 (8) The geographic distribution of grants, by number and amount, awarded
38 under the program.
- 39 (9) For the first annual report after adoption of the guidelines developed by the
40 Department to implement this Subpart, a copy of such guidelines, and, for
41 subsequent reports, identification of any changes in those guidelines from
42 the previous calendar year."

43 **SECTION 3.(f)** The Secretary of Commerce shall develop guidelines related to the
44 administration of the Jobs Catalyst Fund, as authorized by this section, and to the selection of
45 projects. At least 20 days before the effective date of any guidelines or nontechnical
46 amendments to guidelines, the proposed guidelines must be published on the Department's Web
47 site and provide notice to persons who have requested notice of proposed guidelines. In
48 addition, the Department of Commerce shall accept oral and written comments on the proposed
49 guidelines during the 15 business days beginning on the first day the notice requirement of this
50 subsection have been completed. For purposes of this subsection, a technical amendment is one
51 that corrects a spelling or grammatical error or that makes a clarification based on public

1 comment and could have been anticipated by the public notice that immediately preceded the
2 public comment.

3 **SECTION 3.(g)** G.S. 150B-1(d) reads as rewritten:

4 "(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the
5 following:

6 ...

7 (10) The Economic Investment Committee in developing criteria for the Job
8 Development Investment Grant Program under ~~Part 2F~~Subpart A of Part 2G
9 of Article 10 of Chapter 143B of the General Statutes.

10 (10a) The Secretary of Commerce in developing criteria for the Job Catalyst Fund
11 under Subpart B of Part 2G of Article 10 of Chapter 143B of the General
12 Statutes.

13"

14 **SECTION 3.(h)** G.S. 143B-437.07(c) reads as rewritten:

15 "(c) Economic Development Incentive. – An economic development incentive includes
16 any grant from the following programs: Job Development Investment Grant Program; the Job
17 Catalyst Fund; the Job Maintenance and Capital Development Fund; One North Carolina Fund;
18 and the Utility Account. The State also incents economic development through the use of tax
19 expenditures in the form of tax credits and refunds. The Department of Revenue must report
20 annually on these statutory economic development incentives, as required under G.S. 105-256."

21 **SECTION 3.(i)** This section is effective when it becomes law.

22 23 **PART IV. JDIG MODIFICATIONS**

24 **SECTION 4.(a)** Section 15.19(a1) of S.L. 2013-360 reads as rewritten:

25 "**SECTION 15.19.(a1)** Notwithstanding G.S. 143B-437.52(c), for the 2013-2015 fiscal
26 biennium, the maximum total liability for grants awarded, including amounts transferred to the
27 Utility Account pursuant to G.S. 143B-437.61, is ~~twenty-two million five hundred thousand~~
28 ~~dollars (\$22,500,000)~~thirty-six million five hundred thousand dollars (\$36,500,000) and, for the
29 period from July 1, 2015, to December 31, 2015, the maximum total liability for grants
30 awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is
31 seven million five hundred thousand dollars (\$7,500,000). No agreement may be entered into
32 that, when considered together with other existing agreements governing grants awarded during
33 an applicable time period provided in this subsection, could cause the State's potential total
34 ~~annual~~ liability for grants awarded in that time period to exceed the designated maximum
35 amount."

36 **SECTION 4.(b)** G.S. 143B-437.52 reads as rewritten:

37 "**§ 143B-437.52. Job Development Investment Grant Program.**

38 (a) Program. – There is established the Job Development Investment Grant Program to
39 be administered by the Economic Investment Committee. In order to foster job creation and
40 investment in the economy of this State, the Committee may enter into agreements with
41 businesses to provide grants in accordance with the provisions of this ~~Part~~Subpart. The
42 Committee, in consultation with the Attorney General, shall develop criteria to be used in
43 determining whether the conditions of this section are satisfied and whether the project
44 described in the application is otherwise consistent with the purposes of this ~~Part~~Subpart.
45 Before entering into an agreement, the Committee must find that all the following conditions
46 are met:

47 ...

48 (5) The total benefits of the project to the State outweigh its costs and render the
49 grant appropriate for the project. If the total costs of the project to the State
50 outweigh the benefits as a result of an award from the Job Catalyst Fund

1 under Subpart B of this Part, the Committee may disregard the Job Catalyst
2 Fund award in determining whether a grant is appropriate for the project.
3 "

4
5 **PART V. EFFECTIVE DATE**

6 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
7 law.