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PROPOSED SENATE COMMITTEE SUBSTITUTE H117-PCS20365-RBxr-23

Short Title: NC Competes Act.

(Public)

Sponsors:

Referred to:

February 27, 2015

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

4
5 **PART I. JDIG MODIFICATIONS**

6 **SECTION 1.1.(a)** G.S. 143B-437.51 is amended by adding new subdivisions to
7 read:

8 "**§ 143B-437.51. Definitions.**

9 The following definitions apply in this Part:

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

31 (6a) High-yield project. – A project for which the agreement requires that a
32 business invest at least seven hundred fifty million dollars (\$750,000,000) in
33 private funds and create at least 2,000 eligible positions.



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1 (6b) through (6j) Reserved.

2 (6k) Major market community. – A county in which the average weekly wage for
3 all insured private employers in the county is one of the three highest in the
4 State.

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

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

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

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

12 **SECTION 1.1.(b)** G.S. 143B-437.52 reads as rewritten:

13 **"§ 143B-437.52. Job Development Investment Grant Program.**

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

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

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

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

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

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

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

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

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

43 (1) Maximum liability. – The maximum amount of total annual liability for
44 grants awarded in any single calendar year under this Part, including
45 amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is
46 fifteen million dollars ~~(\$15,000,000).~~ ~~(\$15,000,000) for a year in which no~~
47 grants are awarded for a high-yield project and is thirty million dollars
48 (\$30,000,000) for a year in which a grant is awarded for a high-yield project.

49 No agreement may be entered into that, when considered together with other
50 existing agreements governing grants awarded during a single calendar year,
51 could cause the State's potential total annual liability for grants awarded in a

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

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

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

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

SECTION 1.1.(c) G.S. 143B-437.53 reads as rewritten:

"§ 143B-437.53. Eligible projects.

(a) Minimum ~~Number of Standards for~~ Eligible Positions. – A business may apply to the Committee for a grant for any project that creates the minimum number of eligible positions satisfying the wage standard as set out in the table below. If the project will be located in more than one ~~development tier area, area designation,~~ the location with the highest ~~development tier~~ area designation determines the minimum number of eligible positions that must be ~~created.~~created and the applicable wage standard. The wage standard is met if the business pays an average weekly wage for all eligible positions that is equal to or greater than the percentage provided below of the average wage for all insured private employers in the county. Before using standards greater than the applicable minimum standards established by this subsection for a project located in a development tier one or two area, the Committee must find that the deviation from the minimum standards disproportionately increases the beneficial economic impact of the project and shall include the information for each project on which the finding is based in the report required by G.S. 143B-437.55(c).

<u>Development Tier</u> -Area <u>Designation</u>	Number of Eligible Positions	<u>Wage Standard</u>
<u>Development</u> Tier One	<u>1020</u>	<u>100%</u>
<u>Development</u> Tier Two	<u>2050</u>	<u>105%</u>
<u>Development</u> Tier Three	<u>20100</u>	<u>110%</u>
<u>Major Market Community</u>	<u>250</u>	<u>120%</u>

...."

SECTION 1.1.(d) G.S. 143B-437.55(c) reads as rewritten:

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

...

1 (11) A listing of all businesses making an application under this Part and an
2 explanation of whether each business ultimately located the project in this
3 State regardless of whether the business was awarded a grant for the project
4 under this Part.

5 (11a) A listing, itemized by development tier, of the number of offers that have
6 been calculated, estimated, or extended but were not accepted and the total
7 award value of the offers.

8"

9 SECTION 1.1.(e) G.S. 143B-437.56 reads as rewritten:

10 "§ 143B-437.56. Calculation of minimum and maximum grants; factors considered.

11 (a) Subject to the ~~limitations-provisions~~ of ~~subsection-subsections (a1) and~~ (d) of this
12 section, the amount of the grant awarded in each case shall be a percentage of the withholdings
13 of eligible ~~positions. The percentage shall be no less than ten percent (10%) and no more than~~
14 ~~seventy five percent (75%) of the withholdings of the eligible~~ positions for a period of years.
15 The percentage shall be no more than eighty percent (80%) for a development tier one area, no
16 more than seventy percent (70%) for a development tier two area, no more than sixty percent
17 (60%) for a development tier three area, and no more than fifty percent (50%) for a major
18 market community. If the project will be located in more than one area designation, the location
19 with the highest area designation determines the maximum percentage to be used. The
20 percentage used to determine the amount of the grant shall be based on criteria developed by
21 the Committee, in consultation with the Attorney General, after considering at least the
22 following:

- 23 (1) The number of eligible positions to be created.
- 24 (2) The expected duration of those positions.
- 25 (3) The type of contribution the business can make to the long-term growth of
26 the State's economy.
- 27 (4) The amount of other financial assistance the project will receive from the
28 State or local governments.
- 29 (5) The total dollar investment the business is making in the project.
- 30 (6) Whether the project utilizes existing infrastructure and resources in the
31 community.
- 32 (7) Whether the project is located in a development zone.
- 33 (8) The number of eligible positions that would be filled by residents of a
34 development zone.
- 35 (9) The extent to which the project will mitigate unemployment in the State and
36 locality.

37 (a1) Notwithstanding the percentage specified by subsection (a) of this section, if the
38 project is a high-yield project, the business has met the investment and job creation
39 requirements, and, for three consecutive years, the business has met all terms of the agreement,
40 the amount of the grant awarded shall be no more than one hundred percent (100%) of the
41 withholdings of eligible positions for each consecutive year the business maintains the
42 minimum job creation requirement and meets all terms of the agreement. A business receiving
43 an enhanced percentage of the withholdings of eligible positions under this subsection that fails
44 to maintain the minimum job creation requirement or meet all terms of the agreement will be
45 disqualified from receiving the enhanced percentage and will have the applicable percentage set
46 forth in subsection (a) of this section applied in the year in which the failure occurs and all
47 remaining years of the grant term.

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

(1) For high-yield projects in which the business receives the enhanced percentage pursuant to subsection (a1) of this section, 20 years starting with the first year a grant payment is made. If a business is disqualified from the enhanced percentage in one of the first 12 years, the term of the grant shall not exceed 12 years starting with the first year a grant payment is made. If a business is disqualified from receiving the enhanced percentage after the first 12 years, the term of the grant ends in the year the disqualification occurs.

(2) For all other projects, 12 years starting with the first year a grant payment is made.

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

(d) For any eligible position that is located in a major market community, eighty-five percent (85%) of the annual grant approved for disbursement shall be payable to the business, and fifteen percent (15%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. For any eligible position that is located in a development tier three area, ~~seventy-five percent (75%)~~ ninety percent (90%) of the annual grant approved for disbursement shall be payable to the business, and ~~twenty-five percent (25%)~~ ten percent (10%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. For any eligible position that is located in a development tier two area, ~~eighty-five percent (85%)~~ ninety-five percent (95%) of the annual grant approved for disbursement shall be payable to the business, and ~~fifteen percent (15%)~~ five percent (5%) shall be payable to the Utility Account pursuant to G.S. 143B-437.61. A position is located in the development tier area that has been assigned to the county in which the project is located at the time the application is filed with the Committee. This subsection does not apply to a high-yield project in years in which the business receives the enhanced percentage pursuant to subsection (a1) of this section.

(e) A business that is receiving any other grant by operation of State law may not receive an amount as a grant pursuant to this Part that, when combined with any other grants, exceeds seventy-five percent (75%) of the withholdings of the business, unless the Committee makes an explicit finding that the additional grant is necessary to secure the project.

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

SECTION 1.1.(f) G.S. 143B-437.57(a) reads as rewritten:

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

...

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

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

...."

SECTION 1.2. G.S. 143B-437.62 reads as rewritten:

"§ 143B-437.62. Expiration.

The authority of the Committee to award new grants expires January 1, ~~2016~~ 2018."

SECTION 1.3. Section 15.19(a1) of S.L. 2013-360 reads as rewritten:

1 "SECTION 15.19.(a1) Notwithstanding G.S. 143B-437.52(c), for the ~~2013-2015 fiscal~~
2 ~~biennium, period from July 1, 2013, to December 31, 2015,~~ the maximum total liability for
3 grants awarded, including amounts transferred to the Utility Account pursuant to
4 G.S. 143B-437.61, is ~~twenty-two million five hundred thousand dollars (\$22,500,000) and, for~~
5 ~~the period from July 1, 2015, to December 31, 2015, the maximum total liability for grants~~
6 ~~awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is~~
7 ~~seven million five hundred thousand dollars (\$7,500,000). thirty-five million dollars~~
8 ~~(\$35,000,000) if no grant is awarded for a high-yield project and is fifty million dollars~~
9 ~~(\$50,000,000) if a grant is awarded for a high-yield project.~~ No agreement may be entered into
10 that, when considered together with other existing agreements governing grants awarded during
11 an applicable time period provided in this subsection, could cause the State's potential total
12 annual liability for grants awarded in that time period to exceed the designated maximum
13 amount."

14 SECTION 1.4. Subsection (d) of Section 1.1 and Section 1.3 of this act are
15 effective when this act becomes law. The remainder of this Part becomes effective July 1, 2015,
16 and applies to awards made under Part 2G of Article 10 of Chapter 143B of the General
17 Statutes on or after that date.

18 PART II. ONE NC MODIFICATIONS

19 SECTION 2.1. G.S. 143B-437.72(c) reads as rewritten:

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

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

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

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

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

38 d. For a local government in a major market community, as defined in
39 G.S. 143B-437.51, the State shall provide no more than one dollar
40 (\$1.00) for every two dollars (\$2.00) provided by the major market
41 community.

42"

43 SECTION 2.2. This Part is effective when this act becomes law.

44 PART III. CORPORATE INCOME TAX RATE REDUCTION AND TAX BASE 45 EXPANSION

46 SECTION 3.1.(a) Effective for taxable years beginning on or after January 1,
47 2016, G.S. 105-130.3 reads as rewritten:

48 "§ 105-130.3. Corporations.
49
50

1 A tax is imposed on the State net income of every C Corporation doing business in this
2 State at the rate of ~~five percent (5%).~~ four percent (4%). An S Corporation is not subject to the
3 tax levied in this section."

4 **SECTION 3.1.(b)** Effective for taxable years beginning on or after January 1,
5 2017, G.S. 105-130.3, as rewritten by subsection (a) of this section, reads as rewritten:

6 "**§ 105-130.3. Corporations.**

7 A tax is imposed on the State net income of every C Corporation doing business in this
8 State at the rate of ~~four percent (4%).~~ three percent (3%). An S Corporation is not subject to the
9 tax levied in this section."

10 **SECTION 3.1.(c)** G.S. 105-130.3C is repealed.

11 **SECTION 3.1.(d)** Except as otherwise provided, this section is effective when this
12 act becomes law.

13 **SECTION 3.2.(a)** G.S. 105-130.5 reads as rewritten:

14 "**§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

15 ...

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

18 ...

19 ~~(6) Amortization in excess of depreciation allowed under the Code on the cost
20 of any sewage or waste treatment plant, and facilities or equipment used for
21 purposes of recycling or resource recovery of or from solid waste, or for
22 purposes of reducing the volume of hazardous waste generated as provided
23 in G.S. 105-130.10.~~

24 ~~(7) Depreciation of emergency facilities acquired prior to January 1, 1955. Any
25 corporation shall be permitted to depreciate any emergency facility, as such
26 is defined in section 168 of the Code, over its useful life, provided such
27 facility was acquired prior to January 1, 1955, and no amortization has been
28 claimed on such facility for State income tax purposes.~~

29 ...

30 (11) If a deduction for an ordinary and necessary business expense was required
31 to be reduced or was not allowed under the Code because the corporation
32 claimed a federal tax credit against its federal income tax liability for the
33 income year in lieu of a deduction, the amount by which the deduction was
34 reduced and the amount of the deduction that was disallowed. ~~This
35 deduction is allowed only to the extent that a similar credit is not allowed by
36 this Chapter for the amount.~~

37 ~~(12) Reasonable expenses, in excess of deductions allowed under the Code, paid
38 for reforestation and cultivation of commercially grown trees; provided, that
39 this deduction shall be allowed only to those corporations in which the real
40 owners of all the shares of such corporation are natural persons actively
41 engaged in the commercial growing of trees, or the spouse, siblings, or
42 parents of such persons. Provided, further, that in no case shall a corporation
43 be allowed a deduction for the same reforestation or cultivation expenditure
44 more than once.~~

45 ~~(13) The eligible income of an international banking facility to the extent
46 included in determining federal taxable income, determined as follows:~~

47 a. ~~"International banking facility" shall have the same meaning as is set
48 forth in the laws of the United States or regulations of the board of
49 governors of the federal reserve system.~~

50 b. ~~The eligible income of an international banking facility for the
51 taxable year shall be an amount obtained by multiplying State taxable~~

~~income as determined under G.S. 105-130.3 (determined without regard to eligible income of an international banking facility and allocation and apportionment, if applicable) for such year by a fraction, the denominator of which shall be the gross receipts for such year derived by the bank from all sources, and the numerator of which shall be the adjusted gross receipts for such year derived by the international banking facility from:~~

- ~~1. Making, arranging for, placing or servicing loans to foreign persons substantially all the proceeds of which are for use outside the United States;~~
- ~~2. Making or placing deposits with foreign persons which are banks or foreign branches of banks (including foreign subsidiaries or foreign branches of the taxpayer) or with other international banking facilities; or~~
- ~~3. Entering into foreign exchange trading or hedging transactions related to any of the transactions described in this paragraph.~~

~~e. The adjusted gross receipts shall be determined by multiplying the gross receipts of the international banking facility by a fraction the numerator of which is the average amount for the taxable year of all assets of the international banking facility which are employed outside the United States and the denominator of which is the average amount for the taxable year of all assets of the international banking facility.~~

- ~~d. For the purposes of this subsection the term "foreign person" means:~~
- ~~1. An individual who is not a resident of the United States;~~
 - ~~2. A foreign corporation, a foreign partnership or a foreign trust, as defined in section 7701 of the Code, other than a domestic branch thereof;~~
 - ~~3. A foreign branch of a domestic corporation (including the taxpayer);~~
 - ~~4. A foreign government or an international organization or an agency of either, or~~
 - ~~5. An international banking facility.~~

~~For purposes of this paragraph, the terms "foreign" and "domestic" shall have the same meaning as set forth in section 7701 of the Code.~~

~~...
(15) The amount paid during the income year, pursuant to 7 U.S.C. § 1445-2, as marketing assessments on tobacco grown by the corporation in North Carolina.~~

~~...
(18) Interest, investment earnings, and gains of a trust, the settlors of which are two or more manufacturers that signed a settlement agreement with this State to settle existing and potential claims of the State against the manufacturers for damages attributable to a product of the manufacturers, if the trust meets all of the following conditions:~~

- ~~a. The purpose of the trust is to address adverse economic consequences resulting from a decline in demand of the manufactured product potentially expected to occur because of market restrictions and other provisions in the settlement agreement.~~

b. ~~A court of this State approves and retains jurisdiction over the trust.~~
 e. ~~Certain portions of the distributions from the trust are made in accordance with certifications that meet the criteria in the agreement creating the trust and are provided by a nonprofit entity, the governing board of which includes State officials.~~

(19) ~~To the extent included in federal taxable income, the amount paid to the taxpayer during the taxable year from the Hurricane Floyd Reserve Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer.~~

...
 (22) ~~To the extent included in federal taxable income, the amount paid to the taxpayer during the taxable year from the Disaster Relief Reserve Fund in the Office of State Budget and Management for hurricane relief or assistance, but not including payments for goods or services provided by the taxpayer.~~

(c) The following other adjustments to federal taxable income shall be made in determining State net income:

(4) ~~The taxpayer shall add to federal taxable income the amount of any recovery during the taxable year not included in federal taxable income, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by this Part but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by the Code. The taxpayer may deduct from federal taxable income the amount of any recovery during the taxable year included in federal taxable income under section 111 of the Code, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by the Code but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by this Part.~~

(5) ~~A savings and loan association may deduct interest earned on deposits at the Federal Home Loan Bank of Atlanta, or its successor, to the extent included in federal taxable income.~~

...."

SECTION 3.2.(b) G.S. 105-130.6A(e), (f), (g), and (h) are repealed.

SECTION 3.2.(c) G.S. 105-130.5(a) is amended by adding a new subdivision to

read:

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

(25) The amount of net interest expense to a related member as determined under G.S. 105-130.7B."

SECTION 3.2.(d) 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:

(28) The amount of qualified interest expense to a related member as determined under G.S. 105-130.7B."

1 SECTION 3.2.(e) Part 1 of Article 4 of Chapter 105 of the General Statutes is
2 amended by adding a new section to read:

3 "§ 105-130.7B. Limitation on qualified interest for certain indebtedness.

4 (a) Limitation. – In determining State net income, a deduction is allowed only for
5 qualified interest paid or accrued by the taxpayer to a related member during a taxable year.
6 This section does not limit the Secretary's authority to adjust a taxpayer's net income as it
7 relates to payments to or charges by a parent, subsidiary, or affiliated corporation in excess of
8 fair compensation in an intercompany transaction under G.S. 105-130.5(a)(9).

9 (b) Definitions. – The definitions in G.S. 105-130.7A apply in this section. In addition,
10 the following definitions apply in this section:

11 (1) Adjusted taxable income. – State net income of the taxpayer determined
12 without regard to this section and other adjustments as the Secretary may by
13 rule provide.

14 (2) Net interest expense. – The excess of the interest paid or accrued by the
15 taxpayer to a related member during the taxable year over the amount of
16 interest from a related member includible in the gross income of the taxpayer
17 for the taxable year.

18 (3) Qualified interest. – The amount of net interest paid or accrued to a related
19 member in a taxable year not to exceed thirty percent (30%) of the taxpayer's
20 adjusted taxable income. This limitation does not apply to interest paid or
21 accrued to a related member if one or more of the following applies:

22 a. Tax is imposed by the State under this Article on the related member
23 with respect to the interest.

24 b. The related member pays a net income tax or gross receipts tax to
25 another state with respect to the interest income.

26 c. The related member is organized under the laws of a foreign country
27 that has a comprehensive income tax treaty with the United States,
28 and that country taxes the interest income at a rate equal to or greater
29 than G.S. 105-130.3."

30 SECTION 3.2.(f) G.S. 105-130.7A(a) reads as rewritten:

31 "(a) Purpose. – Royalty payments received for the use of intangible property in this State
32 are income derived from doing business in this State. This section provides taxpayers with an
33 option concerning the method by which these royalties can be reported for taxation when the
34 recipient and the payer are related members. As provided in this section, these royalty
35 payments can be either (i) deducted by the payer and included in the income of the recipient, or
36 (ii) added back to the income of the payer and excluded from the income of the recipient.
37 Exercising the royalty reporting income option provided in this section does not prevent a
38 taxpayer from having taxable nexus in this State as otherwise provided in this Article and does
39 not permit the recipient of the income to exclude royalty payments from its calculation of sales
40 as defined in G.S. 105-130.4."

41 SECTION 3.2.(g) Subsections (a) through (e) of this section are effective for
42 taxable years beginning on or after January 1, 2016. The remainder of this section is effective
43 when it becomes law.

44 SECTION 3.3.(a) G.S. 105-102.3 is repealed.

45 SECTION 3.3.(b) This section becomes effective July 1, 2016.

46
47 **PART IV. PHASE-IN SINGLE SALES FACTOR APPORTIONMENT AND ADOPT**
48 **MARKET-BASED SOURCING**

49 SECTION 4.1.(a) Effective for taxable years beginning on or after January 1,
50 2016, G.S. 105-130.4(i) reads as rewritten:

1 "(i) ~~All Apportionable Income. – Except as otherwise provided in this section, all~~
2 appportionable income of corporations ~~other than public utilities, excluded corporations, and~~
3 ~~qualified capital intensive corporations~~ shall be apportioned to this State by multiplying the
4 income by a fraction, the numerator of which is the property factor plus the payroll factor plus
5 ~~twice three times~~ the sales factor, and the denominator of which is ~~four five~~. If the sales factor
6 does not exist, the denominator of the fraction is the number of existing factors and if the sales
7 factor exists but the payroll factor or the property factor does not exist, the denominator of the
8 fraction is the number of existing factors plus ~~one two~~."

9 **SECTION 4.1.(b)** Effective for taxable years beginning on or after January 1,
10 2017, G.S. 105-130.4(i), as amended by subsection (a) of this section, reads as rewritten:

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

18 **SECTION 4.1.(c)** Effective for taxable years beginning on or after January 1,
19 2018, G.S. 105-130.4(i), as amended by subsection (b) of this section, reads as rewritten:

20 "(i) Apportionable Income. – Except as otherwise provided in this section, all
21 appportionable income of corporations shall be apportioned to this State by multiplying the
22 income by ~~a fraction, the numerator of which is the property factor plus the payroll factor plus~~
23 ~~four times the sales factor, and the denominator of which is six. If the sales factor does not~~
24 ~~exist, the denominator of the fraction is the number of existing factors and if the sales factor~~
25 ~~exists but the payroll factor or the property factor does not exist, the denominator of the~~
26 ~~fraction is the number of existing factors plus three the sales factor as determined under~~
27 ~~subsection (l) of this section.~~"

28 **SECTION 4.1.(d)** Effective for taxable years beginning on or after January 1,
29 2018, G.S. 105-130.4(a)(6), (a)(9), (j), (k), (s1), and (r) are repealed.

30 **SECTION 4.1.(e)** Except as otherwise provided, this section is effective when this
31 act becomes law.

32 **SECTION 4.2.(a)** G.S. 105-130.4, as amended by Section 5.1(a) of this Part, reads
33 as rewritten:

34 **"§ 105-130.4. Allocation and apportionment of income for corporations.**

35 (a) ~~As used in this section, unless the context otherwise requires: Definitions. – The~~
36 ~~following definitions apply in this section:~~

37 (1) ~~"Apportionable income" means all Apportionable income. – All~~ income that
38 is apportionable under the United States ~~Constitution. Constitution, including~~
39 ~~income that arises from one or more of the following:~~

40 a. ~~Transactions and activities in the regular course of the taxpayer's~~
41 ~~trade or business.~~

42 b. ~~Tangible and intangible property if the acquisition, management,~~
43 ~~employment, development, or disposition of the property is or was~~
44 ~~related to the operation of the taxpayer's trade or business.~~

45 (2) ~~Business activity. – Any activity by a corporation that would establish nexus~~
46 ~~pursuant to 15 U.S.C. § 381.~~

47 (3) ~~Casual sale of property. – The sale of any property that was not purchased,~~
48 ~~produced, or acquired primarily for sale in the corporation's regular trade or~~
49 ~~business.~~

- 1 (4) ~~"Commercial domicile" means the~~ Commercial domicile. – The principal
2 place from which the trade or business of the taxpayer is directed or
3 managed.
- 4 (3)(5) ~~"Compensation" means wages,~~ Compensation. – Wages, salaries,
5 commissions and any other form of remuneration paid to employees for
6 personal services.
- 7 (4)(6) ~~"Excluded corporation" means any~~ Excluded corporation. – Any corporation
8 engaged in business as a building or construction contractor, a securities
9 dealer, or a loan company or a corporation that receives more than fifty
10 percent (50%) of its ordinary gross income from intangible property.
- 11 (7) Net dividends. – Gross dividend income received less related expenses.
- 12 (5)(8) ~~"Nonapportionable income" means all~~ Nonapportionable income. – All
13 income other than apportionable income.
- 14 (6)(9) ~~"Public utility" means any corporation~~ Public utility. – A corporation that
15 owns or operates for public use any plant, equipment, property, franchise, or
16 license for the production, storage, transmission, sale, delivery, or furnishing
17 of electricity, water, steam, oil, oil products, or natural gas and that is subject
18 to control of ~~one or more of the following entities:~~ the North Carolina
19 Utilities Commission, the Federal Communications Commission, the
20 Interstate Commerce Commission, the Federal Energy Regulatory
21 Commission, or the Federal Aviation Agency; and that owns or operates for
22 public use any plant, equipment, property, franchise, or license for the
23 transmission of communications, the transportation of goods or persons, or
24 the production, storage, transmission, sale, delivery or furnishing of
25 electricity, water, steam, oil, oil products, or gas. The term also includes a
26 motor carrier of property whose principal business activity is transporting
27 property by motor vehicle for hire over the public highways of this
28 State. Commission.
- 29 (7)(10) ~~"Sales" means all~~ Sales. – All gross receipts of the corporation except for the
30 following receipts:
- 31 a. Receipts from a casual sale of property.
- 32 b. Receipts allocated under subsections (c) through (h) of this section.
- 33 c. Receipts exempt from taxation.
- 34 d. The portion of receipts realized from the sale or maturity of securities
35 or other obligations that represents a return of principal.
- 36 e. The portion of receipts from financial swaps and other similar
37 financial derivatives that represents the notional principal amount
38 that generates the cash flow traded in the swap agreement.
- 39 f. Receipts in the nature of dividends received that are not taxed under
40 this Part.
- 41 (8) ~~"Casual sale of property" means the sale of any property which was not~~
42 ~~purchased, produced or acquired primarily for sale in the corporation's~~
43 ~~regular trade or business.~~
- 44 (9)(11) ~~"State" means any~~ State. – A state of the United States, the District of
45 Columbia, the Commonwealth of Puerto Rico, any territory or possession of
46 the United States, and any foreign country or political subdivision thereof.
- 47 (b) Multistate Corporations. – A corporation having income from business activity
48 which is taxable both within and without this State shall allocate and apportion its net income
49 or net loss as provided in this section. For purposes of allocation and apportionment, a
50 corporation is taxable in another state if ~~(i) the one or more of the following applies:~~

- 1 (1) The corporation's business activity in that state subjects it to a net income tax
2 or a tax measured by net ~~income, or (ii) that income.~~
- 3 (2) That state has jurisdiction based on the corporation's business activity in that
4 state to subject the corporation to a tax measured by net income regardless
5 whether that state exercises its jurisdiction. ~~For purposes of this section,~~
6 ~~"business activity" includes any activity by a corporation that would~~
7 ~~establish a taxable nexus pursuant to 15 United States Code section 381.~~
- 8 (c) Nonapportionable Income. – Rents and royalties from real or tangible personal
9 property, gains and losses, interest, dividends, patent and copyright royalties and other kinds of
10 income, to the extent that they constitute nonapportionable income, less related expenses shall
11 be allocated as provided in subsections (d) through (h) of this section.
- 12 (d) Rents and Royalties. – Net rents and royalties are allocable to this State as follows:
- 13 (1) Net rents and royalties from real property located in this State are allocable
14 to this State.
- 15 (2) Net rents and royalties from tangible personal property are allocable to this
16 State:
- 17 a. If and to the extent that the property is utilized in this State, or
18 b. In their entirety if the corporation's commercial domicile is in this
19 State and the corporation is not organized under the laws of, or is not
20 taxable in, the state in which the property is utilized.
- 21 (3) The extent of utilization of tangible personal property in a state is
22 determined by multiplying the rents and royalties by a fraction, the
23 numerator of which is the number of days of physical location of the
24 property in the state during the rental or royalty period in the income year
25 and the denominator of which is the number of days of physical location of
26 the property everywhere during all rental or royalty periods in the income
27 year. If the physical location of the property during the rental or royalty
28 period is unknown or unascertainable by the corporation, tangible personal
29 property is utilized in the state in which the property was located at the time
30 the rental or royalty payer obtained possession.
- 31 (e) Gains and Losses. – Gains and losses are allocable to this State as follows:
- 32 (1) Gains and losses from sales or other disposition of real property located in
33 this State are allocable to this State.
- 34 (2) Gains and losses from sales or other disposition of tangible personal
35 property are allocable to this State if
- 36 a. The property had a situs in this State at the time of the sale, or
37 b. The corporation's commercial domicile is in this State and the
38 corporation is not taxable in the state in which the property has a
39 situs.
- 40 (3) Gains and losses from sales or other disposition of intangible personal
41 property are allocable to this State if the corporation's commercial domicile
42 is in this State.
- 43 (f) Interest and Net Dividends. – Interest and net dividends are allocable to this State if
44 the corporation's commercial domicile is in this State. ~~For purposes of this section, the term~~
45 ~~"net dividends" means gross dividend income received less related expenses.~~
- 46 (g) Intangible Property. – Intangible property is allocable to this State as follows:
- 47 (1) Royalties or similar income received from the use of patents, copyrights,
48 secret processes and other similar intangible property are allocable to this
49 State:
- 50 a. If and to the extent that the patent, copyright, secret process or other
51 similar intangible property is utilized in this State, or

- 1 b. If and to the extent that the patent, copyright, secret process or other
2 similar intangible property is utilized in a state in which the taxpayer
3 is not taxable and the taxpayer's commercial domicile is in this State.
- 4 (2) A patent, secret process or other similar intangible property is utilized in a
5 state to the extent that it is employed in production, fabrication,
6 manufacturing, processing, or other use in the state or to the extent that a
7 patented product is produced in the state. If the basis of receipts from such
8 intangible property does not permit allocation to states or if the accounting
9 procedures do not reflect states of utilization, the intangible property is
10 utilized in the state in which the taxpayer's commercial domicile is located.
- 11 (3) A copyright is utilized in a state to the extent that printing or other
12 publication originates in the state. If the basis of receipts from copyright
13 royalties does not permit allocation to states or if the accounting procedures
14 do not reflect states of utilization, the copyright is utilized in the state in
15 which the taxpayer's commercial domicile is located.
- 16 (h) Other Income. – The income less related expenses from any other activities
17 producing nonapportionable income or investments not otherwise specified in this section is
18 allocable to this State if the business situs of the activities or investments is located in this
19 State.
- 20 (i) Apportionable Income. – Except as otherwise provided in this section, all
21 apportionable income of corporations shall be apportioned to this State by multiplying the
22 income by a fraction, the numerator of which is the property factor plus the payroll factor plus
23 three times the sales factor, and the denominator of which is five. If the sales factor does not
24 exist, the denominator of the fraction is the number of existing factors and if the sales factor
25 exists but the payroll factor or the property factor does not exist, the denominator of the
26 fraction is the number of existing factors plus two.
- 27 ...
- 28 (l) (+) Sales Factor. – The sales factor is a fraction, the numerator of which is the total
29 sales of the corporation in this State during the income year, and the denominator of which is
30 the total sales of the corporation everywhere during the income year. ~~Notwithstanding any~~
31 ~~other provision under this Part, the receipts from any casual sale of property shall be excluded~~
32 ~~from both the numerator and the denominator of the sales factor. Where a corporation is not~~
33 ~~taxable in another state on its apportionable income but is taxable in another state only because~~
34 ~~of nonapportionable income, all sales shall be treated as having been made in this~~
35 ~~State. Receipts are in this State if the taxpayer's market for the sales is in this State. If the market~~
36 ~~for a sale cannot be determined, the state or states of assignment shall be reasonably~~
37 ~~approximated. If the taxpayer is not taxable in a state to which a receipt is assigned, or if the~~
38 ~~state of assignment cannot be determined or reasonably approximated, then the receipt shall be~~
39 ~~excluded from the denominator of the receipts factor.~~
- 40 The taxpayer's market for sales is in this State as provided below:
- 41 (1) In the case of sale, rental, lease, or license of real property, if and to the
42 extent the property is located in this State.
- 43 (2) In the case of rental, lease, or license of tangible personal property, if and to
44 the extent the property is located in this State.
- 45 (3) In the case of sale of a service, if and to the extent the service is delivered to
46 a location in this State.
- 47 (4) In the case of intangible property that is rented, leased, or licensed, if and to
48 the extent the property is used in this State. Intangible property utilized in
49 marketing a good or service to a consumer is "used in this State" if that good
50 or service is purchased by a consumer who is in this State.

1 (5) In the case of intangible property that is sold, if and to the extent the
2 property is used in this State. A contract right, government license, or similar
3 intangible property that authorizes the holder to conduct a business activity
4 in a specific geographic area is "used in this State" if the geographic area
5 includes all or part of this State.

6 Receipts from intangible property sales that are contingent on the
7 productivity, use, or disposition of the intangible property shall be treated as
8 receipts from the rental, lease, or licensing of the intangible property as
9 provided under subdivision (4) of this subsection. All other receipts from a
10 sale of intangible property shall be excluded from the numerator and
11 denominator of the sales factor.

12 ~~(2) Sales of tangible personal property are in this State if the property is~~
13 ~~received in this State by the purchaser. In the case of delivery of goods by~~
14 ~~common carrier or by other means of transportation, including transportation~~
15 ~~by the purchaser, the place at which the goods are ultimately received after~~
16 ~~all transportation has been completed shall be considered as the place at~~
17 ~~which the goods are received by the purchaser. Direct delivery into this State~~
18 ~~by the taxpayer to a person or firm designated by a purchaser from within or~~
19 ~~without the State shall constitute delivery to the purchaser in this State.~~

20 (3) ~~Other sales are in this State if:~~

21 ~~a. The receipts are from real or tangible personal property located in~~
22 ~~this State; or~~

23 ~~b. The receipts are from intangible property and are received from~~
24 ~~sources within this State; or~~

25 ~~c. The receipts are from services and the income producing activities~~
26 ~~are in this State.~~

27 (m) Railroad Company. – All apportionable income of a railroad company shall be
28 apportioned to this State by multiplying the income by a fraction, the numerator of which is the
29 "railway operating revenue" from business done within this State and the denominator of which
30 is the "total railway operating revenue" from all business done by the company as shown by its
31 records kept in accordance with the standard classification of accounts prescribed by the
32 Interstate Commerce Commission.

33 "Railway operating revenue" from business done within this State shall mean "railway
34 operating revenue" from business wholly within this State, plus the equal mileage proportion
35 within this State of each item of "railway operating revenue" received from the interstate
36 business of the company. "Equal mileage proportion" shall mean the proportion which the
37 distance of movement of property and passengers over lines in this State bears to the total
38 distance of movement of property and passengers over lines of the company receiving such
39 revenue. "Interstate business" shall mean "railway operating revenue" from the interstate
40 transportation of persons or property into, out of, or through this State. ~~If~~

41 If the Secretary of Revenue finds, with respect to any particular company, that its
42 accounting records are not kept so as to reflect with exact accuracy such division of revenue by
43 State lines as to each transaction involving interstate revenue, the Secretary of Revenue may
44 adopt such regulations, based upon averages, as will approximate with reasonable accuracy the
45 proportion of interstate revenue actually earned upon lines in this State. Provided, that where a
46 railroad is being operated by a partnership which is treated as a corporation for income tax
47 purposes and pays a net income tax to this State, or if located in another state would be so
48 treated and so pay as if located in this State, each partner's share of the net profits shall be
49 considered as dividends paid by a corporation for purposes of this Part and shall be so treated
50 for inclusion in gross income, deductibility, and separate allocation of dividend income.

1 ~~(n) All apportionable income of a telephone company shall be apportioned to this State~~
2 ~~by multiplying the income by a fraction, the numerator of which is gross operating revenue~~
3 ~~from local service in this State plus gross operating revenue from toll services performed~~
4 ~~wholly within this State plus the proportion of revenue from interstate toll services attributable~~
5 ~~to this State as shown by the records of the company plus the gross operating revenue in North~~
6 ~~Carolina from other service less the uncollectible revenue in this State, and the denominator of~~
7 ~~which is the total gross operating revenue from all business done by the company everywhere~~
8 ~~less total uncollectible revenue. Provided, that where a telephone company is required to keep~~
9 ~~its records in accordance with the standard classification of accounts prescribed by the Federal~~
10 ~~Communications Commission the amounts in such accounts shall be used in computing the~~
11 ~~apportionment fraction as provided in this subsection.~~

12 (o) Motor Carrier. – All apportionable income of a motor carrier of property or a motor
13 carrier of people shall be apportioned by multiplying the income by a fraction, the numerator of
14 which is the number of vehicle miles in this State and the denominator of which is the total
15 number of vehicle miles of the company everywhere. The words "vehicle miles" shall mean
16 miles traveled by vehicles owned or operated by the company based upon one of the following:

17 (1) miles traveled by vehicles ~~Miles on a scheduled route.~~

18 (2) ~~owned or operated by the company~~ Miles hauling property for a ~~charge~~
19 charge.

20 (3) ~~or traveling on a scheduled route.~~ Miles carrying passengers for a fare.

21 ~~(p) All apportionable income of a motor carrier of passengers shall be apportioned by~~
22 ~~multiplying the income by a fraction, the numerator of which is the number of vehicle miles in~~
23 ~~this State and the denominator of which is the total number of vehicle miles of the company~~
24 ~~everywhere. The words "vehicle miles" shall mean miles traveled by vehicles owned or~~
25 ~~operated by the company carrying passengers for a fare or traveling on a scheduled route.~~

26 ~~(q) All apportionable income of a telegraph company shall be apportioned by~~
27 ~~multiplying the income by a fraction, the numerator of which is the property factor plus the~~
28 ~~payroll factor plus the sales factor and the denominator of which is three.~~

29 ~~The property factor shall be as defined in subsection (j) of this section, the payroll factor~~
30 ~~shall be as defined in subsection (k) of this section, and the sales factor shall be as defined in~~
31 ~~subsection (l) of this section.~~

32 (r) Single Sales Factor. – All apportionable income of an excluded corporation and of
33 ~~all other~~ public utilities shall be apportioned by multiplying the income by the sales factor as
34 determined under subsection (l) of this section.

35 (s) Transportation Corporation. – All apportionable income of an air transportation
36 corporation or a water transportation corporation shall be apportioned by a fraction, the
37 numerator of which is the corporation's revenue ton miles in this State and the denominator of
38 which is the corporation's revenue ton miles everywhere. The term "revenue ton mile" means
39 one ton of passengers, freight, mail, or other cargo carried one mile. In making this
40 computation, a passenger is considered to weigh two hundred pounds.

41 ...

42 (s2) Broadcaster. – All apportionable income of a broadcaster shall be apportioned as
43 provided in this subsection. The apportionment factor is a fraction, the numerator of which is
44 the sum of the broadcaster's gross receipts from sources within the State and the denominator of
45 which is the sum of the broadcaster's gross receipts from transactions and activity in the regular
46 course of its trade or business everywhere. Advertising gross receipts and license fees for audio
47 or video programming in release shall be attributable to this State in accordance with the
48 audience factor in this State. Gross receipts from subscriber fees, rents, sales, or similar charges
49 from audio or video programming in release shall be attributable to this State based on the
50 amount of subscriber or other fees paid by customers in this State. A sale of audio or video
51 programming on tangible media is sourced to this State as sales of tangible personal property.

The following definitions apply in this subsection:

- (1) Audience factor. – The factor determined by the ratio provided in this subdivision. The factor shall be determined either by reference to the books and records of the taxpayer or by reference to published rating statistics, provided the method used by the taxpayer is consistently used from year to year for this purpose and fairly represents the taxpayer's activity in this State. The ratio is as follows:
 - a. Television station. – The ratio that the viewing audience located in this State for a television station bears to the total viewing audience for a television station.
 - b. Radio station. – The ratio that the listening audience in this State for a radio station bears to the total listening audience for a radio station.
 - c. Cable or satellite program and channel broadcasts. – The ratio that the subscribers for a cable or satellite system located in this State bears to the total subscribers of a cable or satellite system. If the number of subscribers cannot be accurately determined from the books and records maintained by the taxpayer, the ratio shall be determined on the basis of the applicable year's subscription statistics located in published surveys, provided the source selected is consistently used from year to year for this purpose.
- (2) Broadcast. – The transmission of audio or video programming, directly or indirectly, to viewers and listeners by any other method of communication or combination of methods.
- (3) Broadcaster. – A person that provides audio or video programming to customers in this State by digital or analog means in exchange for one or more of the following: advertising receipts, subscriber fees, license, rent, or similar fees. The term includes a television or radio station licensed by the Federal Communications Commission, including network-owned or affiliated stations, a television or radio broadcast network, a cable program network, a distributor of audio or video programming, a cable system operator, and satellite system operator.
- (4) Release or in release. – The placing of film or radio programming into service. A film or radio program is placed into service when it is first broadcast to the primary audience for entertainment, educational, commercial, artistic, or other purpose. Each episode of a television or radio series is placed in service when it is first broadcast. A program is not placed in service merely because it is completed and therefore in a condition or state of readiness and availability for broadcast or merely because it is previewed to prospective sponsors or purchasers.
- (5) Rent. – License fees or other payments or consideration provided in exchange for the broadcast or other use of television or radio programming.
- (6) Subscriber. – The individual residence or other outlet that is the ultimate recipient of the transmission from a cable television system.

...."

SECTION 4.2.(b) This section is effective for taxable years beginning on or after January 1, 2016.

PART V. FRANCHISE TAX RATE REDUCTION AND TAX BASE SIMPLIFICATION

SECTION 5.1.(a) G.S. 105-114(b) reads as rewritten:

"(b) **Definitions.** – The following definitions apply in this Article:

...

(5) Total assets. – The sum of all cash, investments, furniture, fixtures, equipment, receivables, intangibles, and any other items of value owned by a person or a business entity."

SECTION 5.1.(b) G.S. 105-120.2 reads as rewritten:

"§ 105-120.2. Franchise or privilege tax on holding companies.

(a) Every corporation, domestic and foreign, incorporated or, by an act, domesticated under the laws of this State or doing business in this State that, at the close of its taxable year, is a holding company as defined in subsection (c) of this section, shall, pursuant to the provisions of G.S. 105-122, do all of the following:

(1) File a return.

(2) Determine the total amount of its ~~issued and outstanding capital stock, surplus and undivided profits~~ net worth.

(3) Apportion ~~such outstanding capital stock, surplus and undivided profits~~ its net worth to this State.

(b) ~~(4) Tax Rate. –~~ Every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the return is due, the greater of the following:

(1) ~~a~~ A franchise or privilege tax at the rate of one dollar and fifty cents (\$1.50) one dollar (\$1.00) per one thousand dollars (\$1,000) of the amount determined under subsection (a) of this section, but in no case shall the tax be more than seventy-five thousand dollars (\$75,000) nor less than thirty-five dollars (\$35.00), one hundred fifty thousand dollars (\$150,000) nor less than two hundred dollars (\$200.00).

(2) ~~Notwithstanding the provisions of subdivision (1) of this subsection, if~~ If the tax produced pursuant to application of calculated under this paragraph (2) subdivision exceeds the tax produced pursuant to application of calculated under subdivision (1), (1) of this subsection, then the tax is levied at the rate of ~~one dollar and fifty cents (\$1.50) one dollar (\$1.00)~~ one dollar (\$1.00) per one thousand dollars (\$1,000) on the greater of the following:

a. Fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as computed under G.S. 105-122(d).

b. The total actual investment in tangible property in this State of such corporation as computed under G.S. 105-122(d).

...."

SECTION 5.1.(c) G.S. 105-122 reads as rewritten:

"§ 105-122. Franchise or privilege tax on domestic and foreign corporations.

(a) Tax Imposed. – An annual franchise or privilege tax is imposed on a corporation doing business in this State. The tax is determined on the basis of the books and records of the corporation as of the close of its income year. A corporation subject to the tax must file a return under affirmation with the Secretary at the place and in the manner prescribed by the Secretary. The return must be signed by the president, vice-president, treasurer, or chief financial officer of the corporation. The return is due on or before the fifteenth day of the fourth month following the end of the corporation's income year.

(b) Determination of ~~Capital Base. –~~ Net Worth. – A corporation taxed under this section shall determine the total amount of its ~~issued and outstanding capital stock, surplus, and undivided profits. No reservation or allocation from surplus or undivided profits is allowed except as provided below:~~ net worth. The net worth of a corporation is its total assets without regard to the deduction for accumulated depreciation, depletion, or amortization less its total liabilities, computed in accordance with generally accepted accounting principles as of the end

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

- 6 (1) Definite and accrued legal liabilities. A deduction for accumulated
7 depreciation, depletion, and amortization is determined in accordance with
8 the method used for federal tax purposes.
- 9 (1a) Billings in excess of costs that are considered a deferred liability under the
10 percentage of completion method of revenue recognition.
- 11 (2) Taxes accrued, dividends declared, and reserves for depreciation of tangible
12 assets and for amortization of intangible assets as permitted for income tax
13 purposes. An addition for indebtedness the corporation owes to a parent, a
14 subsidiary, an affiliate, or a noncorporate entity in which the corporation or
15 an affiliated group of corporations owns directly or indirectly more than fifty
16 percent (50%) of the capital interests of the noncorporate entity. The amount
17 added back to the corporation's net worth may be further adjusted if part of
18 the capital of the creditor is capital borrowed from a source other than a
19 parent, a subsidiary, or an affiliate. The debtor corporation may deduct a
20 proportionate part of the indebtedness based on the ratio of the borrowed
21 capital of the creditor to the total assets of the creditor. For purposes of this
22 subdivision, borrowed capital does not include indebtedness incurred by a
23 bank arising out of the receipt of a deposit and evidenced by a certificate of
24 deposit, a passbook, a cashier's check, a certified check, or other similar
25 document.
- 26 (2a) If the creditor corporation is taxable under this Article, the creditor
27 corporation may deduct the amount of indebtedness owed to it by a parent,
28 subsidiary, or affiliated corporation to the extent that such indebtedness has
29 been added by the debtor corporation.
- 30 (3) When including deferred tax liabilities, a corporation may reduce the amount
31 included in its base by netting against that amount deferred tax assets. The
32 reduction may not decrease deferred tax liabilities below zero (0). A
33 corporation may deduct the cost of treasury stock.
- 34 (4) Reserves for the cost of any air cleaning device or sewage or waste
35 treatment plant, including waste lagoons, and pollution abatement equipment
36 purchased or constructed and installed which reduces the amount of air or
37 water pollution resulting from the emission of air contaminants or the
38 discharge of sewage and industrial wastes or other polluting materials or
39 substances into the outdoor atmosphere or streams, lakes, or rivers, upon
40 condition that the corporation claiming such deductible liability shall furnish
41 to the Secretary a certificate from the Department of Environment and
42 Natural Resources or from a local air pollution control program for
43 air cleaning devices located in an area where the Environmental
44 Management Commission has certified a local air pollution control program
45 pursuant to G.S. 143-215.112 certifying that the Environmental Management
46 Commission or local air pollution control program has found as a fact that
47 the air cleaning device, waste treatment plant or pollution abatement
48 equipment purchased or constructed and installed as above described has
49 actually been constructed and installed and that such plant or equipment
50 complies with the requirements of the Environmental Management
51 Commission or local air pollution control program with respect to such

- 1 devices, plants or equipment, that such device, plant or equipment is being
2 effectively operated in accordance with the terms and conditions set forth in
3 the permit, certificate of approval, or other document of approval issued by
4 the Environmental Management Commission or local air pollution control
5 program and that the primary purpose thereof is to reduce air or water
6 pollution resulting from the emission of air contaminants or the discharge of
7 sewage and waste and not merely incidental to other purposes and functions.
- 8 (5) Reserves for the cost of purchasing and installing equipment or constructing
9 facilities for the purpose of recycling or resource recovering of or from solid
10 waste or for the purpose of reducing the volume of hazardous waste
11 generated shall be treated as deductible for the purposes of this section upon
12 condition that the corporation claiming such deductible liability shall furnish
13 to the Secretary a certificate from the Department of Environment and
14 Natural Resources certifying that the Department of Environment and
15 Natural Resources has found as a fact that the equipment or facility has
16 actually been purchased, installed or constructed, that it is in conformance
17 with all rules and regulations of the Department of Environment and Natural
18 Resources, and the recycling or resource recovering is the primary purpose
19 of the facility or equipment.
- 20 (6) Reserves for the cost of constructing facilities of any private or public utility
21 built for the purpose of providing sewer service to residential and outlying
22 areas shall be treated as deductible for the purposes of this section; the
23 deductible liability allowed by this section shall apply only with respect to
24 such pollution abatement plants or equipment constructed or installed on or
25 after January 1, 1955.
- 26 (7) The cost of treasury stock.
- 27 (8) In the case of an international banking facility, the capital base shall be
28 reduced by the excess of the amount as of the end of the taxable year of all
29 assets of an international banking facility which are employed outside the
30 United States over liabilities of the international banking facility owed to
31 foreign persons. For purposes of such reduction, foreign persons shall have
32 the same meaning as defined in [G.S. 105-130.5\(b\)\(13\)d](#).

33 Every corporation doing business in this State which is a parent, subsidiary, or affiliate of
34 another corporation shall add to its capital stock, surplus, and undivided profits all indebtedness
35 owed to a parent, subsidiary, or affiliated corporation as a part of its capital used in its business
36 and as a part of the base for franchise tax under this section. If any part of the capital of the
37 creditor corporation is capital borrowed from a source other than a parent, subsidiary, or
38 affiliate, the debtor corporation, which is required under this subsection to include in its tax
39 base the amount of debt by reason of being a parent, subsidiary, or affiliate of the creditor
40 corporation, may deduct from the debt included a proportionate part determined on the basis of
41 the ratio of the borrowed capital of the creditor corporation to the total assets of the creditor
42 corporation. If the creditor corporation is also taxable under the provisions of this section, the
43 creditor corporation is allowed to deduct from the total of its capital, surplus, and undivided
44 profits the amount of any debt owed to it by a parent, subsidiary or affiliated corporation to the
45 extent that the debt has been included in the tax base of the parent, subsidiary, or affiliated
46 debtor corporation reporting for taxation under the provisions of this section.

47 (b1) Definitions. – The following definitions apply in subsection (b) of this section:

- 48 (1) Affiliate. – The same meaning as specified in [G.S. 105-130.2.A](#) corporation
49 is an affiliate of another corporation when both are directly or indirectly
50 controlled by the same parent corporation or by the same or associated
51 financial interests by stock ownership, interlocking directors, or by any other

1 means whatsoever, whether the control is direct or through one or more
2 subsidiary, affiliated, or controlled corporations.

3 (2) Affiliated group. – The same meaning as defined in G.S. 105-114.1.

4 (3) Capital interest. – The right under an entity's governing law to receive a
5 percentage of the entity's assets upon dissolution after payments to creditors.

6 (4) Governing law. – The law under which the noncorporate entity is organized.

7 ~~(2)(5)~~ Indebtedness. – All loans, credits, goods, supplies, or other capital of
8 whatsoever nature furnished by a parent, a subsidiary, ~~or affiliated~~
9 ~~corporation, an affiliate, or a noncorporate entity in which the corporation or~~
10 ~~an affiliated group of corporations owns directly or indirectly more than fifty~~
11 ~~percent (50%) of the capital interests of the noncorporate entity, other than~~
12 indebtedness endorsed, guaranteed, or otherwise supported by one of these
13 corporations.

14 (6) Noncorporate entity. – A person that is neither a human being nor a
15 corporation.

16 ~~(3)(7)~~ Parent. – ~~The same meaning as specified in G.S. 105-130.2.~~ A corporation is
17 a parent of another corporation when, directly or indirectly, it controls the
18 other corporation by stock ownership, interlocking directors, or by any other
19 means whatsoever exercised by the same or associated financial interests,
20 whether the control is direct or through one or more subsidiary, affiliated, or
21 controlled corporations.

22 ~~(4)(8)~~ Subsidiary. – ~~The same meaning as specified in G.S. 105-130.2.~~ A
23 corporation is a subsidiary of another corporation when, directly or
24 indirectly, it is subject to control by the other corporation by stock
25 ownership, interlocking directors, or by any other means whatsoever
26 exercised by the same or associated financial interest, whether the control is
27 direct or through one or more subsidiary, affiliated, or controlled
28 corporations.

29 (c1) Apportionment. – A corporation that is doing business in this State and in one or
30 more other states must apportion its ~~capital stock, surplus, and undivided profits~~ net worth to
31 this State. A corporation must use the apportionment method set out in subdivision (1) of this
32 subsection unless the Department has authorized it to use a different method under subdivision
33 (2) of this subsection. The portion of a corporation's ~~capital stock, surplus, and undivided~~
34 profits net worth determined by applying the appropriate apportionment method is considered
35 the amount of ~~capital stock, surplus, and undivided profits~~ net worth the corporation uses in its
36 business in this State.

37 (1) Statutory. – A corporation that is subject to income tax under Article 4 of
38 this Chapter must apportion its ~~capital stock, surplus, and undivided profits~~
39 net worth by using the fraction it applies in apportioning its income under
40 that Article. A corporation that is not subject to income tax under Article 4
41 of this Chapter must apportion its ~~capital stock, surplus, and undivided~~
42 profits net worth by using the fraction it would be required to apply in
43 apportioning its income if it were subject to that Article. The apportionment
44 method set out in this subdivision is considered the statutory method of
45 apportionment and is presumed to be the best method of determining the
46 amount of a corporation's ~~capital stock, surplus, and undivided profits~~ net
47 worth attributable to the corporation's business in this State.

48 (2) Alternative. – A corporation that believes the statutory apportionment
49 method set out in subdivision (1) of this subsection subjects a greater portion
50 of its ~~capital stock, surplus, and undivided profits~~ net worth to tax under this
51 section than is attributable to its business in this State may make a written

1 request to the Secretary for permission to use an alternative method. The
2 request must set out the reasons for the corporation's belief and propose an
3 alternative method. The corporation has the burden of establishing by clear,
4 cogent, and convincing proof that the statutory apportionment method
5 subjects a greater portion of the corporation's ~~capital stock, surplus, and~~
6 ~~undivided profits-net worth~~ to tax under this section than is attributable to its
7 business in this State and that the proposed alternative method is a better
8 method of determining the amount of the corporation's ~~capital stock, surplus,~~
9 ~~and undivided profits-net worth~~ attributable to the corporation's business in
10 this State.

11 The Secretary must issue a written decision on a corporation's request for
12 an alternative apportionment method. If the decision grants the request, it
13 must describe the alternative method the corporation is authorized to use and
14 state the tax years to which the alternative method applies. A decision may
15 apply to no more than three tax years. A corporation may renew a request to
16 use an alternative apportionment method by following the procedure in this
17 subdivision. A decision of the Secretary on a request for an alternative
18 apportionment method is final and is not subject to administrative or judicial
19 review. A corporation authorized to use an alternative method may apportion
20 its ~~capital stock, surplus, and undivided profits-net worth~~ in accordance with
21 the alternative method or the statutory method.

22 (3) Repealed by Session Laws 2011-330, s. 5, effective June 27, 2011.

23 (d) ~~Tax Base and Tax Rate.~~ – After determining the proportion of its ~~total capital stock,~~
24 ~~surplus and undivided profits-net worth~~ as set out in subsection (c1) of this section, which
25 amount shall not be less than fifty-five percent (55%) of the appraised value as determined for
26 ad valorem taxation of all the real and tangible personal property in this State of each
27 corporation nor less than its total actual investment in tangible property in this State, every
28 corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time
29 the return is due, a franchise or privilege tax at the rate of one dollar ~~and fifty cents (\$1.50)~~
30 ~~(\$1.00)~~ per one thousand dollars (\$1,000) of the total amount of ~~capital stock, surplus and~~
31 ~~undivided profits-net worth~~ as provided in this section. The tax imposed in this section shall not
32 be less than ~~thirty-five dollars (\$35.00)~~ ~~two hundred dollars (\$200.00)~~ and is for the privilege
33 of carrying on, doing business, and/or the continuance of articles of incorporation or
34 domestication of each corporation in this State. Appraised value of tangible property including
35 real estate is the ad valorem valuation for the calendar year next preceding the due date of the
36 franchise tax return. The term "total actual investment in tangible property" as used in this
37 section means the total original purchase price or consideration to the reporting taxpayer of its
38 tangible properties, including real estate, in this State plus additions and improvements thereto
39 less reserve for depreciation as permitted for income tax purposes, ~~and also less any~~
40 ~~indebtedness incurred and existing by virtue of the purchase of any real estate and any~~
41 ~~permanent improvements made thereon. In computing "total actual investment in tangible~~
42 ~~personal property" a corporation may deduct reserves for the entire cost of any air cleaning~~
43 ~~device or sewage or waste treatment plant, including waste lagoons, and pollution abatement~~
44 ~~equipment purchased or constructed and installed which reduces the amount of air or water~~
45 ~~pollution resulting from the emission of air contaminants or the discharge of sewage and~~
46 ~~industrial wastes or other polluting materials or substances into the outdoor atmosphere or into~~
47 ~~streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall~~
48 ~~furnish to the Secretary a certificate from the Department of Environment and Natural~~
49 ~~Resources or from a local air pollution control program for air cleaning devices located in an~~
50 ~~area where the Environmental Management Commission has certified a local air pollution~~
51 ~~control program pursuant to G.S. 143-215.112 certifying that said Department or local air~~

1 ~~pollution control program has found as a fact that the air-cleaning device, waste treatment plant~~
2 ~~or pollution abatement equipment purchased or constructed and installed as above described~~
3 ~~has actually been constructed and installed and that the device, plant or equipment complies~~
4 ~~with the requirements of the Environmental Management Commission or local air pollution~~
5 ~~control program with respect to the devices, plants or equipment, that the device, plant or~~
6 ~~equipment is being effectively operated in accordance with the terms and conditions set forth in~~
7 ~~the permit, certificate of approval, or other document of approval issued by the Environmental~~
8 ~~Management Commission or local air pollution control program and that the primary purpose is~~
9 ~~to reduce air or water pollution resulting from the emission of air contaminants or the discharge~~
10 ~~of sewage and waste and not merely incidental to other purposes and functions. The cost of~~
11 ~~constructing facilities of any private or public utility built for the purpose of providing sewer~~
12 ~~service to residential and outlying areas is treated as deductible for the purposes of this section;~~
13 ~~the deductible liability allowed by this section applies only with respect to pollution abatement~~
14 ~~plants or equipment constructed or installed on or after January 1, 1955.~~purposes.

15 (d1) Credits.—A corporation is allowed a credit against the tax imposed by this section
16 for a taxable year equal to one-half of the amount of tax payable during the taxable year under
17 Article 5E of this Chapter. The credit allowed by this subsection may not exceed the amount of
18 tax imposed by this section for the taxable year, reduced by the sum of all other credits allowed
19 against that tax, except tax payments made by or on behalf of the taxpayer.

20 (e) Any corporation which changes its income year, and files a "short period" income
21 tax return pursuant to G.S. 105-130.15 shall file a franchise tax return in accordance with the
22 provisions of this section in the manner and as of the date specified in subsection (a) of this
23 section. Such corporation shall be entitled to deduct from the total franchise tax computed (on
24 an annual basis) on such return the amount of franchise tax previously paid which is applicable
25 to the period subsequent to the beginning of the new income year.

26 (f) The return and tax required by this section are in addition to all other reports
27 required or taxes levied and assessed in this State.

28 (g) Counties, cities and towns shall not levy a franchise tax on corporations taxed under
29 this section."

30 **SECTION 5.1.(d)** This section is effective for taxable years beginning on or after
31 January 1, 2017.

32 **SECTION 5.2.(a)** G.S. 105-114.1 reads as rewritten:
33 "**§ 105-114.1. Limited liability companies.**

34 ...
35 (b) Controlled Companies. – If a corporation or an affiliated group of corporations
36 owns more than fifty percent (50%) of the capital interests in a noncorporate limited liability
37 company, the corporation or group of corporations must include in its three tax bases pursuant
38 to G.S. 105-122 the same percentage of (i) the noncorporate limited liability company's ~~capital~~
39 ~~stock, surplus, and undivided profits; net worth;~~ (ii) fifty-five percent (55%) of the
40 noncorporate limited liability company's appraised ad valorem tax value of property; and (iii)
41 the noncorporate limited liability company's actual investment in tangible property in this State,
42 as appropriate.

43 ...
44 (d) No Double Inclusion. – If a corporation is required to include a percentage of a
45 noncorporate limited liability company's assets in its tax bases under this Article pursuant to
46 subsection (b) of this section, its investment in the noncorporate limited liability company is
47 not included in its computation of ~~capital stock-net worth~~ base under G.S. 105-122(b).
48"

49 **SECTION 5.2.(b)** G.S. 105-125(b) reads as rewritten:

50 "(b) Certain Investment Companies. – A corporation doing business in North Carolina
51 that meets one or more of the following conditions may, in determining its ~~capital stock,~~

1 ~~surplus, and undivided profits base~~ net worth base for franchise tax, deduct the aggregate
 2 market value of its investments in the stocks, bonds, debentures, or other securities or
 3 evidences of debt of other corporations, partnerships, individuals, municipalities, governmental
 4 agencies, or governments:

- 5 (1) A regulated investment company. – A regulated investment company is an
 6 entity that qualifies as a regulated investment company under section 851 of
 7 the Code.
- 8 (2) A REIT, unless the REIT is a captive REIT. – The terms "REIT" and
 9 "captive REIT" have the same meanings as defined in G.S. 105-130.12."

10 **SECTION 5.2.(c)** This section is effective for taxable years beginning on or after
 11 January 1, 2017.

12
 13 **PART VI. INDIVIDUAL INCOME TAX REDUCTIONS AND MODIFICATION OF**
 14 **THE ITEMIZED DEDUCTION**

15 **SECTION 6.1.(a)** Effective for taxable years beginning on or after January 1,
 16 2016, G.S. 105-153.5(a)(1) reads as rewritten:

17 **"§ 105-153.5. Modifications to adjusted gross income.**

18 (a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may
 19 deduct from adjusted gross income either the standard deduction amount provided in
 20 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)
 21 of this subsection that the taxpayer claimed under the Code. The deduction amounts are as
 22 follows:

- 23 (1) Standard deduction amount. – The standard deduction amount is zero for a
 24 person who is not eligible for a standard deduction under section 63 of the
 25 Code. For all other taxpayers, the standard deduction amount is equal to the
 26 amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	\$15,000 <u>\$17,500</u>
Head of Household	12,000 <u>14,000</u>
Single	7,500 <u>8,750</u>
Married, filing separately	7,500 <u>8,750."</u>

32 **SECTION 6.1.(b)** Effective for taxable years beginning on or after January 1,
 33 2017, G.S. 105-153.5(a)(1), as amended by subsection (a) of this section, reads as rewritten:

34 **"§ 105-153.5. Modifications to adjusted gross income.**

35 (a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may
 36 deduct from adjusted gross income either the standard deduction amount provided in
 37 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)
 38 of this subsection that the taxpayer claimed under the Code. The deduction amounts are as
 39 follows:

- 40 (1) Standard deduction amount. – The standard deduction amount is zero for a
 41 person who is not eligible for a standard deduction under section 63 of the
 42 Code. For all other taxpayers, the standard deduction amount is equal to the
 43 amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	\$17,500 <u>\$17,750</u>
Head of Household	14,000 <u>14,200</u>
Single	8,750 <u>8,875</u>
Married, filing separately	8,750 <u>8,875."</u>

49 **SECTION 6.1.(c)** Effective for taxable years beginning on or after January 1,
 50 2018, G.S. 105-153.5(a)(1), as amended by subsection (b) of this section, reads as rewritten:

51 **"§ 105-153.5. Modifications to adjusted gross income.**

1 (a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may
 2 deduct from adjusted gross income either the standard deduction amount provided in
 3 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)
 4 of this subsection that the taxpayer claimed under the Code. The deduction amounts are as
 5 follows:

- 6 (1) Standard deduction amount. – The standard deduction amount is zero for a
 7 person who is not eligible for a standard deduction under section 63 of the
 8 Code. For all other taxpayers, the standard deduction amount is equal to the
 9 amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	\$17,750 <u>\$18,000</u>
Head of Household	14,200 <u>14,400</u>
Single	8,875 <u>9,000</u>
Married, filing separately	8,875 <u>9,000.</u> "

10 **SECTION 6.1.(d)** Effective for taxable years beginning on or after January 1,
 11 2019, G.S. 105-153.5(a)(1), as amended by subsection (c) of this section, reads as rewritten:

12 **"§ 105-153.5. Modifications to adjusted gross income.**

13 (a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may
 14 deduct from adjusted gross income either the standard deduction amount provided in
 15 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)
 16 of this subsection that the taxpayer claimed under the Code. The deduction amounts are as
 17 follows:

- 18 (1) Standard deduction amount. – The standard deduction amount is zero for a
 19 person who is not eligible for a standard deduction under section 63 of the
 20 Code. For all other taxpayers, the standard deduction amount is equal to the
 21 amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	\$18,000 <u>\$18,250</u>
Head of Household	14,400 <u>14,600</u>
Single	9,000 <u>9,125</u>
Married, filing separately	9,000 <u>9,125.</u> "

22 **SECTION 6.1.(e)** Effective for taxable years beginning on or after January 1,
 23 2020, G.S. 105-153.5(a)(1), as amended by subsection (d) of this section, reads as rewritten:

24 **"§ 105-153.5. Modifications to adjusted gross income.**

25 (a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may
 26 deduct from adjusted gross income either the standard deduction amount provided in
 27 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)
 28 of this subsection that the taxpayer claimed under the Code. The deduction amounts are as
 29 follows:

- 30 (1) Standard deduction amount. – The standard deduction amount is zero for a
 31 person who is not eligible for a standard deduction under section 63 of the
 32 Code. For all other taxpayers, the standard deduction amount is equal to the
 33 amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly	\$18,250 <u>\$18,500</u>
Head of Household	14,600 <u>14,800</u>
Single	9,125 <u>9,250</u>
Married, filing separately	9,125 <u>9,250.</u> "

34 **SECTION 6.2.(a)** G.S. 105-153.7(a) reads as rewritten:

35 **"§ 105-153.7. Individual income tax imposed.**

1 (a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income
2 of every individual. The tax shall be levied, collected, and paid annually. The tax is ~~five and~~
3 ~~seventy five hundredths percent (5.75%)~~ five and five-tenths percent (5.5%) of the taxpayer's
4 North Carolina taxable income."

5 **SECTION 6.2.(b)** This section is effective for taxable years beginning on or after
6 January 1, 2016.

7 **SECTION 6.3.(a)** G.S. 105-153.5(a)(2) reads as rewritten:

8 "**§ 105-153.5. Modifications to adjusted gross income.**

9 (a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may
10 deduct from adjusted gross income either the standard deduction amount provided in
11 subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2)
12 of this subsection that the taxpayer claimed under the Code. The deduction amounts are as
13 follows:

14 ...

15 (2) Itemized deduction amount. – An amount equal to the ~~sum of the items listed~~
16 ~~in this subdivision. The amounts allowed under this subdivision are not~~
17 ~~subject to the overall limitation on itemized deductions under section 68 of~~
18 ~~the Code:~~ itemized deduction amount claimed under the Code other than any
19 amount deducted under section 164 of the Code as State, local, or foreign
20 income tax or as State or local general sales tax. The

21 ~~a. The amount allowed as a deduction for charitable contributions under~~
22 ~~section 170 of the Code for that taxable year.~~

23 ~~b. The amount allowed as a deduction for interest paid or accrued~~
24 ~~during the taxable year under section 163(h) of the Code with respect~~
25 ~~to any qualified residence plus the amount claimed by the taxpayer as~~
26 ~~a deduction for property taxes paid or accrued on real estate under~~
27 ~~section 164 of the Code for that taxable year. The~~

28 amount allowed under this ~~sub-subdivision~~ subdivision may not exceed
29 twenty thousand dollars (\$20,000). For spouses filing as married filing
30 separately or married filing jointly, the total ~~mortgage interest and real estate~~
31 ~~taxes~~ itemized deductions claimed by both spouses combined may not exceed
32 twenty thousand dollars (\$20,000). ~~For spouses filing as married filing~~
33 ~~separately with a joint obligation for mortgage interest and real estate taxes,~~
34 ~~the deduction for these items is allowable to the spouse who actually paid~~
35 ~~them. If~~ For spouses filing as married filing separately, if the amount of the
36 ~~mortgage interest and real estate taxes paid~~ itemized deductions claimed by
37 both spouses exceeds twenty thousand dollars (\$20,000), these deductions
38 must be prorated based on the percentage ~~paid~~ claimed by each spouse. ~~For~~
39 ~~joint obligations paid from joint accounts, the proration is based on the~~
40 ~~income reported by each spouse for that taxable year.~~ spouse under the
41 Code."

42 **SECTION 6.3.(b)** This section is effective for taxable years beginning on or after
43 January 1, 2016.

44 **SECTION 6.4.(a)** G.S. 105-163.2 reads as rewritten:

45 "**§ 105-163.2. Employers must withhold taxes.**

46 ...

47 (b) Withholding Tables. – The manner of withholding and the amount to be withheld
48 shall be determined in accordance with tables and rules adopted by the Secretary. The
49 withholding of wages pursuant to and in accordance with these tables shall be deemed as a
50 matter of law to constitute compliance with the provisions of subsection (a) of this section,
51 notwithstanding any other provisions of this Article. The Secretary shall promulgate tables for

1 computing amounts to be withheld with respect to different rates of wages for different payroll
2 periods applicable to the various combinations of allowances to which an employee may be
3 entitled and taking into account the appropriate standard deduction. The tables may provide for
4 the same amount to be withheld within reasonable salary brackets or ranges so designed as to
5 result in the withholding during a year of approximately the amount of an employee's indicated
6 income tax liability for that year.

7 The withholding allowances provided by these tables and rules shall, as nearly as possible,
8 approximate the amount of the employee's indicated income tax liability for that year based
9 upon all of the following factors:

10 (1) An income tax rate equal to the rate set in G.S. 105-153.7 plus one-tenth of
11 one percent (0.1%).

12 (2) ~~the~~ The additions the employee is required to make under Article 4 of this
13 ~~Chapter and the deductions, Chapter.~~

14 (3) The deductions and credits to which an employee is entitled under Article 4
15 of this Chapter. ~~The Secretary shall promulgate tables for computing~~
16 ~~amounts to be withheld with respect to different rates of wages for different~~
17 ~~payroll periods applicable to the various combinations of allowances to~~
18 ~~which an employee may be entitled and taking into account the appropriate~~
19 ~~standard deduction. The tables may provide for the same amount to be~~
20 ~~withheld within reasonable salary brackets or ranges so designed as to result~~
21 ~~in the withholding during a year of approximately the amount of an~~
22 ~~employee's indicated income tax liability for that year. The withholding of~~
23 ~~wages pursuant to and in accordance with these tables shall be deemed as a~~
24 ~~matter of law to constitute compliance with the provisions of subsection (a)~~
25 ~~of this section, notwithstanding any other provisions of this Article.~~

26 ...

27 (e) Alternatives to Tables. – If the Secretary determines that use of the withholding
28 tables would be impractical, would impose an unreasonable burden on an employer, or would
29 produce substantially incorrect results, the Secretary may authorize or require an employer to
30 use some other method of determining the amounts to be withheld under this Article. The
31 alternative method authorized by the Secretary must reasonably approximate the predicted
32 income tax liability of the affected ~~employees.~~ employees based upon the factors provided in
33 subsection (b) of this section. In addition, with the agreement of the employer and employee,
34 the Secretary may authorize an employer to use an alternative method that results in
35 withholding of a greater amount than otherwise required under this section.

36 The Secretary's authorization of an alternative method is discretionary and may be
37 cancelled at any time without advance notice if the Secretary finds that the method is being
38 abused or is not resulting in the withholding of an amount reasonably approximating the
39 predicted income tax liability of the affected employees. The Secretary shall give an employer
40 written notice of any cancellation and the findings upon which the cancellation is based. The
41 cancellation becomes effective upon the employer's receipt of this notice or on the third day
42 after the notice was mailed to the employer, whichever occurs first. If the employer requests a
43 hearing on the cancellation within 30 days after the cancellation, the Secretary shall grant a
44 hearing. After a hearing, the Secretary's findings are conclusive."

45 **SECTION 6.4.(b)** This section is effective for taxable years beginning on or after
46 January 1, 2016.

47 **SECTION 6.5.** Except as otherwise provided, this Part is effective when this act
48 becomes law.

50 **PART VII. ARTICLE 5F EXCISE TAX CHANGES**

51 **SECTION 7.(a)** G.S. 105-187.51(b) reads as rewritten:

1 "§ 105-187.51. Tax imposed on mill machinery.

2 ...
3 (b) Rate. – The tax is ~~one percent (1%) of imposed on~~ the ~~sales-purchase~~ price of the
4 machinery, part, or ~~accessory purchased-accessory~~. The tax rate is equal to the general rate of
5 tax under G.S. 105-164.4. The maximum tax is ~~eighty dollars (\$80.00)–five hundred dollars~~
6 ~~(\$500.00)~~ per article. As used in this section, the term "accessories" does not include
7 electricity."

8 SECTION 7.(b) G.S. 105-187.51B(b) reads as rewritten:

9 "§ 105-187.51B. Tax imposed on certain recyclers, research and development companies,
10 industrial machinery refurbishing companies, and companies located at ports
11 facilities.

12 ...
13 (b) Rate. – The tax is ~~one percent (1%) of imposed on~~ the ~~sales-purchase~~ price of the
14 equipment or other tangible personal property. The tax rate is equal to the general rate of tax
15 under G.S. 105-164.4. The maximum tax is ~~eighty dollars (\$80.00)–five hundred dollars~~
16 ~~(\$500.00)~~ per article."

17 SECTION 7.(c) G.S. 105-187.51D(b) reads as rewritten:

18 "§ 105-187.51D. Tax imposed on machinery at large manufacturing and distribution
19 facility.

20 ...
21 (b) Tax. – A privilege tax is imposed on a large manufacturing and distribution facility
22 that purchases mill machinery, distribution machinery, or parts or accessories for mill
23 machinery or distribution machinery for storage, use, or consumption in this State. The tax is
24 ~~one percent (1%) of imposed on~~ the ~~sales-purchase~~ price of the machinery, part, or ~~accessory~~
25 ~~purchased-accessory~~. The rate of tax is equal to the general rate of tax under G.S. 105-164.4.
26 The maximum tax is ~~eighty dollars (\$80.00)–five hundred dollars (\$500.00)~~ per article. As used
27 in this section, the term "accessories" does not include electricity."

28 SECTION 7.(d) This section becomes effective October 1, 2015, and applies to
29 purchases made on or after that date or contracts entered into on or after that date.

30 PART VIII. SALES TAX CHANGES

31 SECTION 8.1.(a) G.S. 105-164.3 reads as rewritten:

32 "§ 105-164.3. Definitions.

33 The following definitions apply in this Article:

34 ...
35 (18a) Maintenance service. – To keep tangible personal property in working order,
36 to avoid breakdown, and to prevent unnecessary repairs.

37 ...
38 (33d) Repair service. – To restore or attempt to restore tangible personal property
39 to proper working order or good condition. The term includes replacing or
40 putting together what is torn or broken.

41"

42 SECTION 8.1.(b) G.S. 105-164.4(a) reads as rewritten:

43 "§ 105-164.4. Tax imposed on retailers.

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

48 (1a) The general rate applies to the sales price of each ~~manufactured home of the~~
49 following items sold at retail, including all accessories attached to ~~the~~
50 manufactured home-the item when it is delivered to the ~~purchaser-purchaser:~~
51

- 1 a. A manufactured home.
 2 b. A modular home. The sale of a modular home to a modular
 3 homebuilder is considered a retail sale. A person who sells a modular
 4 home at retail is allowed a credit against the tax imposed by this
 5 subdivision for sales or use tax paid to another state on tangible
 6 personal property incorporated in the modular home. The retail sale
 7 of a modular home occurs when a modular home manufacturer sells
 8 a modular home to a modular homebuilder or directly to the end user
 9 of the modular home.
 10 c. An aircraft, except that the maximum tax on an aircraft is five
 11 thousand dollars (\$5,000) per article.
 12 d. A boat, except that the maximum tax on a boat is one thousand five
 13 hundred dollars (\$1,500) per article.

14 ~~(1b) The rate of three percent (3%) applies to the sales price of each aircraft or~~
 15 ~~boat sold at retail, including all accessories attached to the item when it is~~
 16 ~~delivered to the purchaser. The maximum tax is one thousand five hundred~~
 17 ~~dollars (\$1,500) per article.~~

18 ...
 19 ~~(8) The general rate applies to the sales price of each modular home sold at~~
 20 ~~retail, including all accessories attached to the modular home when it is~~
 21 ~~delivered to the purchaser. The sale of a modular home to a modular~~
 22 ~~homebuilder is considered a retail sale. A person who sells a modular home~~
 23 ~~at retail is allowed a credit against the tax imposed by this subdivision for~~
 24 ~~sales or use tax paid to another state on tangible personal property~~
 25 ~~incorporated in the modular home. The retail sale of a modular home occurs~~
 26 ~~when a modular home manufacturer sells a modular home to a modular~~
 27 ~~homebuilder or directly to the end user of the modular home.~~

- 28 ...
 29 (15) The general rate applies to the sales price of or the gross receipts derived
 30 from repair service and maintenance service.
 31 (16) The general rate applies to the sales price of or the gross receipts derived
 32 from grooming, training, boarding, or providing other care for an animal.
 33 (17) The general rate applies to the sales price of or the gross receipts derived
 34 from veterinary services.
 35 (18) The general rate applies to the sales price of or the gross receipts derived
 36 from advertising services."

37 **SECTION 8.1.(c)** G.S. 105-164.13(49) is repealed.

38 **SECTION 8.1.(d)** G.S. 105-467(a) reads as rewritten:

39 **"§ 105-467. Scope of sales tax.**

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

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

46 "

47 **SECTION 8.1.(e)** G.S. 105-237.1(a)(6) reads as rewritten:

48 **"§ 105-237.1. Compromise of liability.**

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

1 ...
2 (6) The taxpayer is a retailer or a person under Article 5 of this Chapter; the
3 assessment is for sales or use tax the retailer failed to collect or the person
4 failed to pay on an item taxable under G.S. 105-164.4(a)(10) ~~and (a)(11),~~
5 through (a)(18), and the retailer or person made a good-faith effort to
6 comply with the sales and use tax laws. This subdivision expires for
7 assessments issued after July 1, 2020."

8 **SECTION 8.1.(f)** The Secretary of Revenue is directed to repeal the following
9 administrative rules: 17 NCAC 07B .1002, 17 NCAC 07B .1003, and 17 NCAC 07B .1901. A
10 repair part historically purchased and taxed in accordance with these administrative rules
11 should be purchased for the purpose of resale.

12 **SECTION 8.1.(g)** Subsections (a) through (d) and subsection (f) of this section
13 become effective October 1, 2015, and apply to sales made on or after that date, services
14 provided on or after that date, and contracts entered into on or after that date. The remainder of
15 this section is effective when this act becomes law.

16 **SECTION 8.2.(a)** G.S. 105-164.4I(b) is amended by adding a new subdivision to
17 read:

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

- 20 (1) An item exempt from tax under this Article, other than a motor vehicle
21 exempt from tax under G.S. 105-164.13(32).
- 22 (2) A transmission, distribution, or other network asset contained on
23 utility-owned land, right-of-way, or easement.
- 24 (3) An item purchased by a professional motorsports racing team for which the
25 team may receive a sales tax refund under G.S. 105-164.14A(5).
- 26 (4) An item subject to tax under Article 5F of Chapter 105 of the General
27 Statutes.

28 (5) A qualifying aircraft or qualifying jet engine if the service contract is sold by
29 the manufacturer of the aircraft or jet engine or a related member of the
30 manufacturer within 90 days of the date the aircraft or engine is purchased.
31 A qualifying aircraft is an aircraft with a maximum take-off weight of more
32 than 9,000 pounds but not in excess of 15,000 pounds. A qualifying jet
33 engine is an engine certified pursuant to Part 33 of Title 14 of the Code of
34 Federal Regulations."

35 **SECTION 8.2.(b)** This section becomes effective October 1, 2015, and applies to a
36 service contract sold on or after that date.

37 **SECTION 8.3.(a)** Effective July 1, 2015, and applicable to refund applications
38 submitted for purchases made on or after that date, G.S. 105-164.14(b) reads as rewritten:

39 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed ~~a semiannual~~
40 an annual refund of sales and use taxes paid by it under this Article on direct purchases of
41 tangible personal property and services for use in carrying on the work of the nonprofit entity.
42 The aggregate amount of purchases for which an entity may receive a refund under this
43 subsection for a 12-month period beginning July 1 and ending June 30 may not exceed six
44 hundred sixty-six million six hundred sixty-six thousand six hundred sixty-seven dollars
45 (\$666,666,667). Sales and use tax liability indirectly incurred by a nonprofit entity through
46 reimbursement to an authorized person of the entity for the purchase of tangible personal
47 property and services for use in carrying on the work of the nonprofit entity is considered a
48 direct purchase by the entity. Sales and use tax liability indirectly incurred by a nonprofit entity
49 on building materials, supplies, fixtures, and equipment that become a part of or annexed to any
50 building or structure that is owned or leased by the nonprofit entity and is being erected,
51 altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is

1 considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. The
2 refund allowed under this subsection does not apply to purchases of electricity,
3 telecommunications service, ancillary service, piped natural gas, video programming, or a
4 prepaid meal plan. A request for a refund must be in writing and must include any information
5 and documentation required by the Secretary. A request for a refund ~~for the first six months of~~
6 ~~a calendar year is due the following October 15; a request for a refund for the second six~~
7 ~~months of a calendar year is due the following April 15. The aggregate annual refund amount~~
8 ~~allowed an entity under this subsection for a fiscal year may not exceed thirty-one million~~
9 ~~seven hundred thousand dollars (\$31,700,000).for a 12-month period ending June 30 is due the~~
10 following October 15.

11 The refunds allowed under this subsection do not apply to an entity that is owned and
12 controlled by the United States or to an entity that is owned or controlled by the State and is not
13 listed in this subsection. A hospital that is not listed in this subsection is allowed ~~a semiannual~~
14 an annual refund of sales and use taxes paid by it on over-the-counter drugs purchased for use
15 in carrying out its work. The following nonprofit entities are allowed a refund under this
16 subsection:

17 "...."

18 **SECTION 8.3.(b)** Effective July 1, 2015, and applicable to refund applications
19 submitted for purchases made on or after that date, G.S. 105-467(b) reads as rewritten:

20 "(b) Exemptions and Refunds. – The State exemptions and exclusions contained in
21 G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under
22 this Article. The State refund provisions contained in G.S. 105-164.14 through
23 G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed
24 under this Article. A refund of an excessive or erroneous State sales tax collection allowed
25 under G.S. 105-164.11 and a refund of State sales tax paid on a rescinded sale or cancelled
26 service contract under G.S. 105-164.11A apply to the local sales and use tax authorized to be
27 levied and imposed under this Article. The ~~aggregate annual local amount of purchases for~~
28 ~~which an entity may receive a refund amount of local sales and use tax may not exceed the~~
29 ~~amount allowed an entity under G.S. 105-164.14(b) for a fiscal year may not exceed thirteen~~
30 ~~million three hundred thousand dollars (\$13,300,000).G.S. 105-164.14(b). If the purchases for~~
31 ~~which a refund application is made exceed the amount of purchases for which an entity may~~
32 ~~receive a refund, and those purchases are made in more than one county, the purchases eligible~~
33 ~~for the refund in each county is proportionate to the amount of purchases sourced to that county~~
34 relative to the total purchases made in all counties.

35 Except as provided in this subsection, a taxing county may not allow an exemption,
36 exclusion, or refund that is not allowed under the State sales and use tax. A local school
37 administrative unit and a joint agency created by interlocal agreement among local school
38 administrative units pursuant to G.S. 160A-462 to jointly purchase food service-related
39 materials, supplies, and equipment on their behalf is allowed an annual refund of sales and use
40 taxes paid by it under this Article on direct purchases of tangible personal property and
41 services. Sales and use tax liability indirectly incurred by the entity on building materials,
42 supplies, fixtures, and equipment that become a part of or annexed to any building or structure
43 that is owned or leased by the entity and is being erected, altered, or repaired for use by the
44 entity is considered a sales or use tax liability incurred on direct purchases by the entity for the
45 purpose of this subsection. The refund allowed under this subsection does not apply to
46 purchases of electricity, telecommunications service, ancillary service, piped natural gas, video
47 programming, or a prepaid meal plan. A request for a refund is due in the same time and
48 manner as provided in G.S. 105-164.14(c). Refunds applied for more than three years after the
49 due date are barred."

1 **SECTION 8.3.(c)** Effective July 1, 2016, and applicable to refund applications
2 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
3 subsection (a) of this section, reads as rewritten:

4 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
5 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
6 personal property and services for use in carrying on the work of the nonprofit entity. The
7 aggregate amount of purchases for which an entity may receive a refund under this subsection
8 for a fiscal year may not exceed ~~six hundred sixty-six million six hundred sixty-six thousand~~
9 ~~six hundred sixty-seven dollars (\$666,666,667) —one hundred fifty million dollars~~
10 (\$150,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a nonprofit
11 entity through reimbursement to an authorized person of the entity for the purchase of tangible
12 personal property and services for use in carrying on the work of the nonprofit entity is
13 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
14 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
15 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
16 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
17 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
18 entity. The refund allowed under this subsection does not apply to purchases of electricity,
19 telecommunications service, ancillary service, piped natural gas, video programming, or a
20 prepaid meal plan. A request for a refund must be in writing and must include any information
21 and documentation required by the Secretary. A request for a refund for the preceding fiscal
22 year is due the following October 15.

23 The refunds allowed under this subsection do not apply to an entity that is owned and
24 controlled by the United States or to an entity that is owned or controlled by the State and is not
25 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
26 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
27 out its work. The following nonprofit entities are allowed a refund under this subsection:

28 "

29 **SECTION 8.3.(d)** Effective July 1, 2017, and applicable to refund applications
30 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
31 subsection (c) of this section, reads as rewritten:

32 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
33 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
34 personal property and services for use in carrying on the work of the nonprofit entity. The
35 aggregate amount of purchases for which an entity may receive a refund under this subsection
36 for a fiscal year may not exceed ~~one hundred fifty million dollars (\$150,000,000) —one hundred~~
37 ~~twenty million dollars (\$120,000,000) in a fiscal year. Sales and use tax liability indirectly
38 incurred by a nonprofit entity through reimbursement to an authorized person of the entity for
39 the purchase of tangible personal property and services for use in carrying on the work of the
40 nonprofit entity is considered a direct purchase by the entity. Sales and use tax liability
41 indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment
42 that become a part of or annexed to any building or structure that is owned or leased by the
43 nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for
44 carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct
45 purchases by the nonprofit entity. The refund allowed under this subsection does not apply to
46 purchases of electricity, telecommunications service, ancillary service, piped natural gas, video
47 programming, or a prepaid meal plan. A request for a refund must be in writing and must
48 include any information and documentation required by the Secretary. A request for a refund
49 for the preceding fiscal year is due the following October 15.~~

50 The refunds allowed under this subsection do not apply to an entity that is owned and
51 controlled by the United States or to an entity that is owned or controlled by the State and is not

1 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
2 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
3 out its work. The following nonprofit entities are allowed a refund under this subsection:

4"

5 **SECTION 8.3.(e)** Effective July 1, 2018, and applicable to refund applications
6 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
7 subsection (d) of this section, reads as rewritten:

8 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
9 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
10 personal property and services for use in carrying on the work of the nonprofit entity. The
11 aggregate amount of purchases for which an entity may receive a refund under this subsection
12 for a fiscal year may not exceed ~~one hundred twenty million dollars (\$120,000,000)~~ ninety
13 million dollars (\$90,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a
14 nonprofit entity through reimbursement to an authorized person of the entity for the purchase of
15 tangible personal property and services for use in carrying on the work of the nonprofit entity is
16 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
17 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
18 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
19 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
20 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
21 entity. The refund allowed under this subsection does not apply to purchases of electricity,
22 telecommunications service, ancillary service, piped natural gas, video programming, or a
23 prepaid meal plan. A request for a refund must be in writing and must include any information
24 and documentation required by the Secretary. A request for a refund for the preceding fiscal
25 year is due the following October 15.

26 The refunds allowed under this subsection do not apply to an entity that is owned and
27 controlled by the United States or to an entity that is owned or controlled by the State and is not
28 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
29 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
30 out its work. The following nonprofit entities are allowed a refund under this subsection:

31"

32 **SECTION 8.3.(f)** Effective July 1, 2019, and applicable to refund applications
33 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
34 subsection (e) of this section, reads as rewritten:

35 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
36 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
37 personal property and services for use in carrying on the work of the nonprofit entity. The
38 aggregate amount of purchases for which an entity may receive a refund under this subsection
39 for a fiscal year may not exceed ~~ninety million dollars (\$90,000,000)~~ sixty million dollars
40 (\$60,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a nonprofit
41 entity through reimbursement to an authorized person of the entity for the purchase of tangible
42 personal property and services for use in carrying on the work of the nonprofit entity is
43 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
44 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
45 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
46 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
47 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
48 entity. The refund allowed under this subsection does not apply to purchases of electricity,
49 telecommunications service, ancillary service, piped natural gas, video programming, or a
50 prepaid meal plan. A request for a refund must be in writing and must include any information

1 and documentation required by the Secretary. A request for a refund for the preceding fiscal
2 year is due the following October 15.

3 The refunds allowed under this subsection do not apply to an entity that is owned and
4 controlled by the United States or to an entity that is owned or controlled by the State and is not
5 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
6 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
7 out its work. The following nonprofit entities are allowed a refund under this subsection:

8"

9 **SECTION 8.3.(g)** Effective July 1, 2020, and applicable to refund applications
10 submitted for purchases made on or after that date, G.S. 105-164.14(b), as amended by
11 subsection (f) of this section, reads as rewritten:

12 "(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed an annual
13 refund of sales and use taxes paid by it under this Article on direct purchases of tangible
14 personal property and services for use in carrying on the work of the nonprofit entity. The
15 aggregate amount of purchases for which an entity may receive a refund under this subsection
16 for a fiscal year may not exceed ~~sixty million dollars (\$60,000,000)~~ fifteen million dollars
17 (\$15,000,000) in a fiscal year. Sales and use tax liability indirectly incurred by a nonprofit
18 entity through reimbursement to an authorized person of the entity for the purchase of tangible
19 personal property and services for use in carrying on the work of the nonprofit entity is
20 considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a
21 nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of
22 or annexed to any building or structure that is owned or leased by the nonprofit entity and is
23 being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit
24 activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit
25 entity. The refund allowed under this subsection does not apply to purchases of electricity,
26 telecommunications service, ancillary service, piped natural gas, video programming, or a
27 prepaid meal plan. A request for a refund must be in writing and must include any information
28 and documentation required by the Secretary. A request for a refund for the preceding fiscal
29 year is due the following October 15.

30 The refunds allowed under this subsection do not apply to an entity that is owned and
31 controlled by the United States or to an entity that is owned or controlled by the State and is not
32 listed in this subsection. A hospital that is not listed in this subsection is allowed an annual
33 refund of sales and use taxes paid by it on over-the-counter drugs purchased for use in carrying
34 out its work. The following nonprofit entities are allowed a refund under this subsection:

35"

36 **SECTION 8.4.** Except as otherwise provided, this Part is effective when this act
37 becomes law.

38 39 **PART IX. FAIR DISTRIBUTION OF SALES TAX REVENUE TO LOCAL** 40 **GOVERNMENTS**

41 **SECTION 9.1.(a)** Sec. 9 of Chapter 1096 of the 1967 Session Laws, as amended,
42 reads as rewritten:

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

1 municipalities in accordance with the ad valorem distribution method described in
2 G.S. 105-472(b)(2).

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

6 **SECTION 9.1.(b)** G.S. 105-469(a) reads as rewritten:

7 "(a) The Secretary shall collect and administer a tax levied by a county pursuant to this
8 Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as
9 if they were levied by the State under Article 5 of this Chapter. The Secretary must, on a
10 monthly basis, distribute local taxes levied on food to the taxing counties in accordance with
11 G.S. 105-472. The Secretary must include the amount allocated under this subsection in the
12 local distribution as follows:

13 (1) ~~The Secretary must allocate one-half of the net proceeds on a per capita~~
14 ~~basis according to the most recent annual population estimates certified to~~
15 ~~the Secretary by the State Budget Officer. The Secretary must then adjust the~~
16 ~~amount allocated to each county as provided in G.S. 105-486(b).~~ The
17 Secretary must include one-half of the amount allocated under this
18 subdivision-subsection in the distribution made under ~~Article 40 of this~~
19 ~~Chapter and must include the remaining one-half in the distribution made~~
20 ~~under Article 42 of this Chapter. Article 39 of this Chapter and under Chapter~~
21 ~~1096 of the 1967 Session Laws.~~

22 (2) ~~The Secretary must allocate the remaining net proceeds proportionately to~~
23 ~~each taxing county based upon the amount of sales tax on food collected in~~
24 ~~the taxing county in the 1997-1998 fiscal year under Article 39 of this~~
25 ~~Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total~~
26 ~~amount of sales tax on food collected in all taxing counties in the 1997-1998~~
27 ~~fiscal year under Article 39 of this Chapter and under Chapter 1096 of the~~
28 ~~1967 Session Laws.~~ The Secretary must include one-quarter of the amount
29 allocated under this subdivision-subsection in the distribution made under
30 ~~Article 39 Article 40~~ of this Chapter.

31 (3) The Secretary must include one-quarter of the amount allocated under this
32 subsection in the distribution made under Article 42 of this Chapter."

33 **SECTION 9.1.(c)** G.S. 105-472(a) reads as rewritten:

34 "(a) County Allocation. – The Secretary shall, on a monthly basis, allocate the net
35 proceeds of the tax collected under this Article to each taxing county ~~for which the Secretary~~
36 ~~collects the tax the net proceeds of the tax collected in that county under this Article. as~~
37 provided in this subsection. For the purpose of this section, "net proceeds" means the gross
38 proceeds of the tax collected in each county under this Article less taxes refunded, the cost to
39 the State of collecting and administering the tax in the county as determined by the Secretary,
40 and other deductions that may be charged to the county. For the percentage allocation made on
41 a point of collection basis, the Secretary must allocate the net proceeds of the tax collected
42 under this Article in that county. If the Secretary collects local sales or use taxes in a month and
43 the taxes cannot be identified as being attributable to a particular taxing county, the Secretary
44 shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected
45 in each county under this Article during that month and shall include them in the monthly
46 distribution. Amounts collected by electronic funds transfer payments are included in the
47 distribution for the month in which the return that applies to the payment is received. For the
48 percentage allocation made on a per capita basis, the Secretary must allocate the net proceeds
49 of the tax collected under this Article to the taxing counties according to the most recent annual
50 population estimates certified to the Secretary by the State Budget Office.

51 The net proceeds are allocated as follows:

<u>Distribution for Net Proceeds Collected in Fiscal Year</u>	<u>Per Capita</u>	<u>Point of Collection</u>
<u>2016-2017</u>	<u>40%</u>	<u>60%</u>
<u>2017-2018</u>	<u>55%</u>	<u>45%</u>
<u>2018-2019</u>	<u>70%</u>	<u>30%</u>
<u>2019-2020 and thereafter</u>	<u>80%</u>	<u>20%.</u> "

SECTION 9.1.(d) G.S. 105-486 reads as rewritten:

"§ 105-486. Distribution of additional taxes.

(a) County Allocation. – The Secretary shall, on a monthly basis, allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied under this Article to the taxing counties ~~on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer.~~ in accordance with G.S. 105-472.

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

County	Adjustment Factor
Dare	1.49
Brunswick	1.17
Orange	1.15
Carteret and Durham	1.14
Avery	1.12
Moore	1.11
Transylvania	1.10
Chowan, McDowell, and Richmond	1.09
Pitt and New Hanover	1.07
Beaufort, Perquimans, Buncombe, and Watauga	1.06
Cabarrus, Jackson, and Surry	1.05
Alleghany, Bladen, Robeson, Washington, Craven, Henderson, Onslow, and Vance	1.04
Gaston, Granville, and Martin	1.03
Alamance, Burke, Caldwell, Chatham, Duplin, Edgecombe, Haywood, Swain, and Wilkes	1.02
Hertford, Union, Stokes, Yancey, Halifax, Rockingham, and Cleveland	1.01
Alexander, Anson, Johnston, Northampton, Pasquotank, Person, Polk, and Yadkin	1.00
Catawba, Harnett, Iredell, Pamlico, Pender, Randolph, Stanly, and Tyrrell	0.99
Cherokee, Cumberland, Davidson, Graham, Hyde, Macon, Rutherford, Scotland, and Wilson	0.98
Ashe, Bertie, Franklin, Hoke, Lincoln, Montgomery, and Warren	0.97
Wayne, Clay, Madison, Sampson, Wake, Lee, and Forsyth	0.96
Caswell, Gates, Mitchell, and Greene	0.95
Currituck and Guilford	0.94
Davie and Nash	0.93
Rowan and Camden	0.92
Jones	0.90
Mecklenburg	0.89

1 ~~Lenoir~~ 0-88
2 ~~Columbus~~ 0-81

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

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

13 **SECTION 9.1.(e)** G.S. 105-501(a) reads as rewritten:

14 "(a) Method. – The Secretary must, on a monthly basis, allocate ~~to each taxing county~~
15 the net proceeds of the additional one-half percent (1/2%) sales and use taxes collected ~~in that~~
16 ~~county~~ under this ~~Article. If the Secretary collects taxes under this Article in a month and the~~
17 ~~taxes cannot be identified as being attributable to a particular taxing county, the Secretary must~~
18 ~~allocate the net proceeds of these taxes among the taxing counties in proportion to the amount~~
19 ~~of taxes collected in each county under this Article in that month.~~ Article in accordance with
20 G.S. 105-472. The Secretary must divide and distribute the funds allocated to a taxing county
21 each month under this section between the county and the municipalities located in the county
22 in accordance with the method by which the one percent (1%) sales and use taxes levied in that
23 county pursuant to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are
24 distributed. No municipality may receive any funds under this section if it was incorporated
25 with an effective date of on or after January 1, 2000, and is disqualified from receiving funds
26 under G.S. 136-41.2. No municipality may receive any funds under this section, incorporated
27 with an effective date on or after January 1, 2000, unless a majority of the mileage of its streets
28 are open to the public."

29 **SECTION 9.1.(f)** G.S. 105-522 reads as rewritten:

30 **"§ 105-522. City hold harmless for repealed local taxes.**

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

32 (1) Amount of sales and use tax revenue allocated under G.S. 105-472 or
33 Chapter 1096 of the 1967 Session Laws. – An allocation to each taxing
34 county of the net proceeds of the tax collected in that county under Article
35 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws. This
36 definition represents an allocation based on one hundred percent (100%)
37 point of collection.

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

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

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

47 a. The amount of sales and use tax revenue allocated under
48 G.S. 105-486. This calculation determines the effect of repealing a
49 one-half percent (1/2%) sales and use tax distributed on a per capita
50 basis.

- b. An amount determined by subtracting twenty-five percent (25%) of the amount of sales and use tax revenue allocated under G.S. 105-472 or Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of the amount of sales and use tax revenue allocated under G.S. 105-486. This calculation determines the effect of distributing a one-quarter percent (.25%) tax on the basis of point of origin instead of on a per capita basis.

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

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

SECTION 9.1.(g) G.S. 105-523 is repealed.

SECTION 9.1.(h) Except as otherwise provided, this section becomes effective July 1, 2016, and applies to sales tax revenues collected on or after that date and distributed to counties and cities on or after September 1, 2016.

PART X. LOCAL SALES TAX OPTIONS

SECTION 10.1. Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 43A.

"County Sales and Use Tax for Public Education.

"§ 105-513.1. Short title; purpose.

This Article is the County Sales and Use Tax for Public Education and is intended to give the counties of this State an opportunity to obtain an additional source of revenue with which to finance their public education needs.

"§ 105-513.2. Levy.

(a) Rate. – The maximum rate of local sales and use tax that may be levied under this Article is one-half percent (1/2%).

(b) Authority. – A board of county commissioners may, by resolution and after 10 days' public notice, levy a local sales and use tax under this Article if all of the conditions listed in this subsection are met. The tax rate is the rate specified in the ballot plus any other State and local sales and use taxes levied pursuant to law. The conditions are:

(1) The tax is approved by the majority of those voting in a referendum held pursuant to this Article.

(2) No other ballot question concerning the levy of a local sales and use tax authorized under Article 43 or Article 46 of this Chapter may be presented in the same referendum.

(3) If levied, the tax would not result in a total local sales and use tax rate in the county in excess of two and one-half percent (2 1/2%).

(c) Referendum. – The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum on the question of whether to levy a local sales and use tax in the county at a rate of one-quarter percent (1/4%). The election shall be held in accordance with the procedures of G.S. 163-287.

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

"[] FOR [] AGAINST

1 Local sales and use tax at the rate of one-quarter percent (1/4%) in addition to the
2 current local sales and use taxes, to be used only for public education."

3 (e) One-Half Cent (1/2%) Transit-Authorized Counties. – As of April 1, 2013, Durham
4 County and Orange County have levied a local sales and use tax at the rate of two and
5 three-quarters percent (2 3/4%). Notwithstanding subsection (a) of this section, the local sales
6 and use tax rate in these counties may exceed two and one-half percent (2 1/2%) if all of the
7 conditions listed in this subsection are met. In no event may the local sales and use tax rate in
8 these counties exceed two and three-quarters percent (2 3/4%). The conditions are:

9 (1) The county levies a tax authorized under Part 4 of Article 43 of this Chapter.

10 (2) The county conducted one or more advisory referendums on or before
11 January 1, 2014, in which a majority of the voters approved the levy of a
12 local sales and use tax at the rate of one-quarter percent (1/4%) under this
13 Article.

14 (f) Reinstatement of Cap. – If the levy of a tax under Article 43 or Article 46 of this
15 Chapter is repealed and the repeal results in the local sales and use tax rate falling below two
16 and three-quarters percent (2 3/4%) in a county named in subsection (e) of this section, the
17 county may not enact a local sales and use tax under this Subchapter that results in a county
18 local sales and use tax rate that exceeds two and one-half percent (2 1/2%).

19 **"§ 105-513.3. Administration.**

20 Except as provided in this Article, the adoption, levy, collection, administration, and repeal
21 of these additional taxes must be in accordance with Article 39 of this Chapter. In applying the
22 provisions of Article 39 of this Chapter to this Article, references to "this Article" mean Article
23 43A of Chapter 105 of the General Statutes. G.S. 105-468.1 is an administrative provision that
24 applies to this Article. A tax levied under this Article does not apply to the sales price of food
25 that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled
26 transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount
27 allocated to a county between the county and the municipalities within the county.

28 **"§ 105-513.4. Use.**

29 A county may use the proceeds of a tax levied under this Article only for the following
30 purposes:

31 (1) Public school capital outlay purposes, as defined in G.S. 115C-426(f), or to
32 retire any indebtedness incurred by the county for these purposes.

33 (2) Salaries of classroom teachers, salaries of classroom teacher assistants, and
34 supplements of classroom teacher salaries. For the purposes of this section, a
35 classroom teacher is an employee of a local board of education employed as
36 a teacher who spends at least seventy percent (70%) of his or her work time
37 in classroom instruction, and a classroom teacher assistant is an employee of
38 a local board of education employed as a teacher assistant who spends at
39 least seventy percent (70%) of his or her work time assisting in a classroom.

40 (3) Financial support of community colleges, including funds to supplement
41 State financial support of community colleges."

42 **SECTION 10.2.(a)** G.S. 115C-429(b) reads as rewritten:

43 "(b) The board of county commissioners shall complete its action on the school budget
44 on or before July 1, or such later date as may be agreeable to the board of education. The
45 commissioners shall determine the amount of county revenues to be appropriated in the county
46 budget ordinance to the local school administrative unit for the budget year. The board of
47 county commissioners may, in its discretion, allocate part or all of its appropriation by purpose,
48 function, or project as defined in the uniform budget format. For allocations made by the board
49 of county commissioners for the purpose of or for a function related to instructional services,
50 the board of county commissioners may direct the amount of funds to be used for salaries of
51 classroom teachers, salaries of classroom teacher assistants, and supplements of classroom

1 teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local
2 board of education employed as a teacher who spends at least seventy percent (70%) of his or
3 her work time in classroom instruction, and a classroom teacher assistant is an employee of a
4 local board of education employed as a teacher assistant who spends at least seventy percent
5 (70%) of his or her work time assisting in a classroom."

6 **SECTION 10.2.(b)** G.S. 115C-433(b) reads as rewritten:

7 "(b) If the board of county commissioners allocates part or all of its appropriations
8 pursuant to G.S. 115C-429(b), the board of education must obtain the approval of the board of
9 county commissioners for an amendment to the budget that ~~(i) increases~~ does any of the
10 following:

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

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

19 (3) Decreases the amount of funds allocated for salaries of classroom teachers,
20 salaries of classroom teacher assistants, and supplements of classroom
21 teacher salaries. For the purposes of this section, a classroom teacher is an
22 employee of a local board of education employed as a teacher who spends at
23 least seventy percent (70%) of his or her work time in classroom instruction,
24 and a classroom teacher assistant is an employee of a local board of
25 education employed as a teacher assistant who spends at least seventy
26 percent (70%) of his or her work time assisting in a classroom."

27 **SECTION 10.3.(a)** G.S. 115D-55(a) reads as rewritten:

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

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

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

45 **SECTION 10.3.(b)** G.S. 115D-58(b) reads as rewritten:

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

49 (1) Increases or decreases the amount of that appropriation allocated to a
50 purpose, function, or project by twenty-five percent (25%) or more from the
51 amount contained in the budget ordinance adopted by the local tax-levying

1 authority or such lesser percentage as specified by the local tax-levying
2 authority in the original budget ordinance, so long as such percentage is not
3 less than ten percent (10%).

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

7 **SECTION 10.4.(a)** Part 1 of Article 43 of Chapter 105 of the General Statutes is
8 amended by adding a new section to read:

9 "**§ 105-506.4. Tax rate.**

10 (a) Rate. – The rate of local sales and use tax in a county levying a tax under this
11 Article must meet all of the following conditions:

- 12 (1) The maximum rate of tax that may be levied under this Article is one-half
13 percent (1/2%).
14 (2) The total local sales and use tax rate in the county may not exceed two and
15 one-half percent (2 1/2%).

16 (b) One-Half Cent (1/2%) Transit-Authorized Counties. – Notwithstanding subsection
17 (a) of this section, the local sales and use tax rate of a county may exceed two and one-half
18 percent (2 1/2%) if all of the conditions listed in this subsection are met. In no event may a
19 county's local sales and use tax rate exceed two and three-quarters percent (2 3/4%). The
20 conditions are:

- 21 (1) The county is Durham or Orange County.
22 (2) The county levies a tax authorized under Part 4 of this Article.
23 (3) The county conducted one or more advisory referendums on or before
24 January 1, 2014, in which a majority of the voters approved the levy of a
25 local sales and use tax at the rate of one-quarter percent (1/4%) under Article
26 46 of this Chapter.

27 (c) Reinstatement of Cap. – If the levy of a tax under this Article or Article 46 of this
28 Chapter is repealed and the repeal results in the local sales and use tax rate falling below two
29 and three-quarters percent (2 3/4%) in a county listed in subdivision (1) of subsection (b) of this
30 section, the county may not enact a local sales and use tax under this Subchapter that results in
31 a county local sales and use tax rate that exceeds two and one-half percent (2 1/2%)."

32 **SECTION 10.4.(b)** G.S. 105-509 reads as rewritten:

33 "**§ 105-509. Local election on adoption of sales and use tax – regional public**
34 **transportation authority.**

35 (a) Special District. – A regional public transportation authority may create a special
36 district that consists of the entire area of one or more counties within its territorial jurisdiction
37 and jurisdiction. The transportation authority may levy on behalf of the special district the tax
38 authorized in this section. section in a county that held a successful referendum under
39 subsection (b) of this section. The proceeds of a tax levied under this section may be used only
40 for the benefit of the special district and only for the purposes provided in this Article. If a
41 referendum in a district fails in all the counties in the district, the transportation authority may
42 abolish the special district.

43 (b) Resolution. – The board of trustees of the regional public transportation authority
44 may, if all of the conditions listed in this subsection have been met, direct the respective county
45 board or boards of elections to conduct an advisory referendum within the special district on
46 the question of whether a local sales and use tax at the rate of one-half percent (1/2%) may be
47 levied within the district in accordance with this Part. The tax may not be levied without voter
48 approval. The election shall be held on a date jointly agreed upon by the authority, the county
49 board or boards of commissioners, and the county board or boards of elections and shall be
50 held on a date permitted by and in accordance with the procedures of G.S. 163-287. The
51 conditions are as follows:

- 1 (1) The board of trustees has obtained approval to conduct a referendum on or
2 before January 1, 2014, by a vote of the following:
- 3 a. A majority vote of each of the county boards of commissioners
4 within the special district, if it is a multicounty special district.
- 5 b. A majority of the county board of commissioners within the special
6 district, if it is a single-county special district.
- 7 (2) A public hearing is held on the question by the board or boards of
8 commissioners at least 30 days before the date the election is to be held.

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

11 "[] FOR [] AGAINST

12 One-half percent (1/2%) local sales and use taxes, in addition to the current local sales and
13 use taxes, to be used only for public transportation systems."

14 (d) Expansion. – If a special district created under this Part does not include all the
15 counties in the territorial jurisdiction of a transportation authority, it may be expanded to
16 include an additional whole county or counties by joint action of the board of trustees of the
17 transportation authority and the board of commissioners of the county or boards of
18 commissioners of the counties to be ~~added, with the approval of the voters in the county or~~
19 ~~counties to be added. The~~ added if all of the conditions listed in this subsection are met. Except
20 as otherwise provided, the procedure for expansion of a district is the same as for the initial
21 creation of the district, but the referendum shall be held separately within each of the counties
22 to be added. The conditions are:

- 23 (1) The county to be included in the special district levies a local sales and use
24 tax authorized under Part 6 of this Article at the maximum rate of one-half
25 percent (1/2%).
- 26 (2) The county remits, on a monthly basis, the proceeds of the tax levied under
27 Part 6 of this Article to the regional public transportation authority."

28 **SECTION 10.4.(c)** Part 5 of Article 43 of Chapter 105 of the General Statutes is
29 repealed.

30 **SECTION 10.4.(d)** Part 6 of Article 43 of Chapter 105 of the General Statutes
31 reads as rewritten:

32 "Part 6. Other Counties.

33 **"§ 105-511. Applicability.**

34 This Part applies only in counties other than Durham, ~~Forsyth, Guilford,~~ Mecklenburg,
35 ~~Orange, or Wake or Orange.~~

36 **"§ 105-511.1. ~~Limitations.~~ Authority.**

37 A board of county commissioners may, by resolution and after 10 days' public notice, levy
38 a local sales and use tax under this Article if all of the conditions listed in this subsection are
39 met. The tax rate is the rate specified in the ballot plus any other State and local sales and use
40 taxes levied pursuant to law. The conditions are:

- 41 (1) The tax is approved by the majority of those voting in a referendum held
42 pursuant to this Article.
- 43 (2) No other ballot question concerning the levy of a local sales and use tax
44 authorized under Article 43A or Article 46 of this Chapter may be presented
45 in the same referendum.
- 46 (3) If levied, the tax would not result in a total local sales and use tax rate in the
47 county in excess of two and one-half percent (2 1/2%).
- 48 (4) A county may not levy a tax under this Part unless the ~~The~~ county or at least
49 one unit of local government in the county operates a public transportation
50 system. As used in this Part, operation of a public transportation system
51 includes a contract or interlocal agreement for operation of the public

1 transportation system by another county or municipality, or by a
2 transportation authority created under (i) a municipal charter; or (ii) Article
3 25, 26, or 27 of Chapter 160A of the General Statutes. As used in this Part,
4 operation of a public transportation system also includes a contract with a
5 private entity for operation of the public transportation system.

6 **"§ 105-511.2. Local election on adoption of sales and use tax.**

7 (a) ~~Resolution.~~ ~~Referendum.~~ – The board of commissioners of a county may direct
8 the county board of elections to conduct an advisory referendum within the county on the
9 question of whether a local sales and use tax at the rate of one-quarter percent (1/4%) may be
10 levied in accordance with this ~~Part.~~ Part subject to the conditions in G.S. 105-511.1. The
11 election shall be held on a date jointly agreed upon by the boards and shall be held on a date
12 permitted by and in accordance with the procedures of G.S. 163-287. The board of
13 commissioners shall hold a public hearing on the question at least 30 days before the date the
14 election is to be held.

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

17 "[] FOR [] AGAINST

18 One-quarter percent (1/4%) local sales and use taxes, in addition to the current local sales
19 and use taxes, to be used only for public transportation systems."

20 **"§ 105-511.3. Levy and collection of sales and use tax.**

21 If ~~the majority of those voting in a referendum held pursuant to this Part vote for the levy of~~
22 ~~the tax, all of the conditions in G.S. 105-511.1 have been met,~~ the board of commissioners of
23 the county may, by resolution, levy one-quarter percent (1/4%) local sales and use taxes in
24 addition to any other State and local sales and use taxes levied pursuant to law. Except as
25 provided in this Part, the adoption, levy, collection, administration, and repeal of these
26 additional taxes shall be in accordance with Article 39 of this Chapter. In applying the
27 provisions of Article 39 of this Chapter to this Part, references to "this Article" mean "Part 6 of
28 Article 43 of Chapter 105 of the General Statutes.

29 **"§ 105-511.4. Distribution and use of taxes.**

30 (a) Distribution. – The Secretary shall, on a monthly basis, allocate to each taxing
31 county the net proceeds of the tax levied under this Part by that county. If the Secretary collects
32 taxes under this Part in a month and the taxes cannot be identified as being attributable to a
33 particular taxing county, the Secretary shall allocate these taxes among the taxing counties, in
34 proportion to the amount of taxes collected in each county under this Part in that month and
35 shall include them in the monthly distribution.

36 The Secretary shall distribute the net proceeds of the tax levied by a county on a per capita
37 basis among the county and the units of local government in the county that operate a public
38 transportation system as follows:

- 39 (1) To the county based on the population of the county that is not in an
40 incorporated area, and to the municipalities within the county based on the
41 population of that municipality that is located within that county. To
42 determine the population of each county and each municipality, the
43 Secretary shall use the most recent annual estimate of population certified by
44 the State Budget Officer.
- 45 (2) Notwithstanding subdivision (1) of this subsection, if a municipality to
46 which funds are to be allocated neither operates nor contracts for the
47 operation of a public transportation system, the population of that
48 municipality shall be excluded from the calculations of subdivision (1) of
49 this subsection.
- 50 (3) Notwithstanding subdivision (1) of this subsection, if a county to which
51 funds are to be allocated neither operates nor contracts for the operation of a

1 public transportation system, the population of that county not in an
2 incorporated area shall be excluded from the calculations of subdivision (1)
3 of this subsection.

4 If a county or a municipality that does not receive an allocation of funds on account of
5 subdivision (2) or (3) of this subsection begins to operate or contract for the operation of a
6 public transportation system, that county or municipality shall begin receiving funds beginning
7 the first day of July that is more than 30 days thereafter.

8 (b) Use. – A county or municipality may use funds received under this Part only for
9 financing, constructing, operating, and maintaining public transportation systems. Every unit of
10 government shall use funds to supplement and not to supplant or replace existing funds or other
11 resources for public transportation systems.

12 (c) Applicability. – This section does not apply to a county that is remitting the
13 proceeds of a tax levied under this Part to a regional public transportation authority under Part 4
14 of this Article."

15 **SECTION 10.5.(a)** Article 46 of Chapter 105 of the General Statutes reads as
16 rewritten:

17 "Article 46.

18 "One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use Tax.

19 "§ 105-535. **Short title.**

20 This Article is the One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use
21 Tax Act.

22 "§ 105-536. **Limitations.**

23 This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under
24 Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half
25 cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half
26 cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

27 "§ 105-537. **Levy.**

28 (a) Authority.—~~If the majority of those voting in a referendum held pursuant to this~~
29 ~~Article vote for the levy of the tax, the board of county commissioners may, by resolution and~~
30 ~~after 10 days' public notice, levy a local sales and use tax at a rate of one quarter percent~~
31 ~~(0.25%).~~Rate. – The maximum rate of local sales and use tax that may be levied under this
32 Article is one-half percent (1/2%).

33 (a1) Authority. – A board of county commissioners may, by resolution and after 10 days'
34 public notice, levy a local sales and use tax under this Article if all of the conditions listed in
35 this subsection are met. The tax rate is the rate specified in the ballot plus any other State and
36 local sales and use taxes levied pursuant to law. The conditions are:

37 (1) The tax is approved by the majority of those voting in a referendum held
38 pursuant to this Article.

39 (2) No other ballot question concerning the levy of a local sales and use tax
40 authorized under Article 43 or Article 43A of this Chapter may be presented
41 in the same referendum.

42 (3) If levied, the tax would not result in a total local sales and use tax rate in the
43 county in excess of two and one-half percent (2 1/2%).

44 (b) Vote.—Referendum. – The board of county commissioners may direct the county
45 board of elections to conduct an advisory referendum on the question of whether to levy a local
46 sales and use tax in the county ~~as provided in this Article.~~ at a rate of one-quarter percent
47 (1/4%). The election shall be held in accordance with the procedures of G.S. 163-287.

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

50 "[] FOR [] AGAINST

1 Local sales and use tax at the rate of one-quarter percent (0.25%) in addition to all other
2 State and local sales and use taxes."

3 ...
4 (e) One-Half Percent (1/2%) Transit-Authorized Counties. – As of April 1, 2013,
5 Durham County and Orange County have levied a local sales and use tax at the rate of two and
6 three-quarters percent (2 3/4%). Notwithstanding subsection (a) of this section, the local sales
7 and use tax rate in these counties may exceed two and one-half percent (2 1/2%) if all of the
8 conditions listed in this subsection are met. In no event may the local sales and use tax rate in
9 these counties exceed two and three-quarters percent (2 3/4%). The conditions are:

10 (1) The county levies a tax authorized under Part 4 of Article 43 of this Chapter.

11 (2) The county conducted one or more advisory referendums on or before
12 January 1, 2014, in which a majority of the voters approved the levy of a
13 local sales and use tax at the rate of one-quarter percent (1/4%) under this
14 Article.

15 (f) Reinstatement of Cap. – If the levy of a tax under this Article or Article 43 of this
16 Chapter is repealed and the repeal results in the local sales and use tax rate falling below two
17 and three-quarters percent (2 3/4%) in a county named in subsection (e) of this section, the
18 county may not enact a local sales and use tax under this Subchapter that results in a county
19 local sales and use tax rate that exceeds two and one-half percent (2 1/2%).

20 **"§ 105-538. Administration of taxes.**

21 Except as provided in this Article, the adoption, levy, collection, administration, and repeal
22 of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1
23 is an administrative provision that applies to this Article. A tax levied under this Article does
24 not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to
25 the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary
26 shall not divide the amount allocated to a county between the county and the municipalities
27 within the county."

28 **SECTION 10.5.(b)** G.S. 105-164.3(4a) reads as rewritten:

29 "(4a) Combined general rate. – The sum of all of the following:

30 a. The State's general rate of tax set in ~~G.S. 105-164.4(a)~~ plus the
31 G.S. 105-164.4(a).

32 b. The sum of the rates of the local sales and use taxes authorized for
33 every county in this State by ~~Subchapter VIII Article 39 of this~~
34 Chapter or Chapter 1096 of the 1967 Session Laws, Article 40 of this
35 Chapter, and Article 42 of this ~~Chapter for every county in this~~
36 State-Chapter.

37 c. One-half of the maximum rate of tax authorized by Article 46 of this
38 Chapter."

39 **SECTION 10.6.** Subsection (b) of Section 10.4 of this Part is effective when it
40 becomes law and applies to the expansion of a special district created under Part 4 of Article 43
41 of Chapter 105 of the General Statutes on or after that date. Except as otherwise provided, this
42 Part is effective when this act becomes law.

43
44 **PART XI. MISCELLANEOUS PROVISIONS AND EFFECTIVE DATE**

45 **SECTION 11.1.** This act does not affect the rights or liabilities of a taxing county,
46 a taxpayer, or another person arising under a statute repealed by this act before the effective
47 date of its repeal, nor does it affect the right to any refund or credit of a tax that accrued under
48 the repealed statute before the effective date of its repeal.

49 **SECTION 11.2.** The Secretary of Revenue may adopt rules needed to administer
50 G.S. 105-130.4(s), as enacted by this act, in accordance with the expedited procedure for the
51 adoption of rules in G.S. 105-262.1.

1 **SECTION 11.3.** The Utilities Commission shall adjust the rates for public utilities,
2 excluding water public utilities with less than two hundred thousand dollars (\$200,000) in
3 annual operating revenues, for the tax changes listed in this section. Each utility shall calculate
4 the cumulative net effect of the tax changes and file the calculations with proposed rate changes
5 to reflect the net prospective tax changes in utility customer rates within 60 days of the
6 enactment of this act. Any adjustments required to existing tax assets or liabilities reflected in
7 the utility's books and records required by the tax changes listed in this section shall be deferred
8 and reflected in customer rates in either the utility's next rate case or earlier if deemed
9 appropriate by the Commission. The Commission shall adjust rates for the following changes:

- 10 (1) The corporate income tax rate reduction and tax base expansion in Part III of
11 this act.
12 (2) The phase-in of single sales factor and the adoption of market-base sourcing
13 in Part IV of this act.
14 (3) The franchise tax rate reduction and tax base simplification in Part V of this
15 act.

16 **SECTION 11.4.** Except as otherwise provided, this act is effective when it
17 becomes law.