

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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HOUSE BILL 117
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Committee Substitute #2 Favorable 3/3/15
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Proposed Conference Committee Substitute H117-PCCS10445-RB-3

Short Title: NC Competes Act.

(Public)

Sponsors:

Referred to:

February 27, 2015

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE NORTH CAROLINA COMPETES ACT.
3 The General Assembly of North Carolina enacts:
4

5 **PART I. JDIG MODIFICATIONS**

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

8 **"§ 143B-437.51. Definitions.**

9 The following definitions apply in this Part:

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



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1 include any person who works as an independent contractor or on a
2 consulting basis for the business.

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

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

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

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

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

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

14 **"§ 143B-437.52. Job Development Investment Grant Program.**

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

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

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

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

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

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

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

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

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

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

single calendar year, 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.(c) G.S. 143B-437.53 reads as rewritten:

"§ 143B-437.53. Eligible projects.

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

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

...."

SECTION 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:

- ...
- (11) A listing of all businesses making an application under this Part and an explanation of whether each business ultimately located the project in this State regardless of whether the business was awarded a grant for the project under this Part.
- (11a) A listing, itemized by development tier, of the number of offers that have been calculated, estimated, or extended but were not accepted and the total award value of the offers.

...."

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

2 "**§ 143B-437.56. Calculation of minimum and maximum grants; factors considered.**

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

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

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

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

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

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

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

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

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

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

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

24 ...

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

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

35"

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

37 "**§ 143B-437.62. Expiration.**

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

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

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

1 annual liability for grants awarded in that time period to exceed the designated maximum
2 amount."

3 **SECTION 1.(i)** The Department of Commerce shall study the factors that have
4 contributed to the termination of grants awarded pursuant to Part 2G of Article 10 of Chapter
5 143B of the General Statutes. In conducting the study required by this subsection, the
6 Department shall examine the efforts of other states that have permitted similar economic
7 development programs to incent businesses to create jobs for the purpose of determining best
8 practices for remediating underperformance of participating businesses in order to lower the
9 incidence of community economic development agreements under G.S. 143B-437.57 ending in
10 termination. The Department shall submit the report to the House of Representatives Finance
11 Committee, the Senate Finance Committee, the House of Representatives Committee on
12 Agriculture and Natural and Economic Resources, the Senate Appropriations Committee on
13 Natural and Economic Resources, and the Fiscal Research Division no later than March 1,
14 2016.

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

19 **PART II. ONE NC MODIFICATIONS**

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

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

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

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

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

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

39"

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

41 **PART III. DATACENTER INFRASTRUCTURE ACT**

42 **SECTION 3.(a)** G.S. 105-164.3 reads as rewritten:

43 **"§ 105-164.3. Definitions.**

44 The following definitions apply in this Article:

45 ...

46 (33c) Qualifying datacenter. – A datacenter that satisfies each of the following
47 conditions:

48 a. The datacenter meets the wage standard and health insurance
49 requirements of G.S. 143B-437.08A.
50
51

- 1 b. The Secretary of Commerce has made a written determination that at
2 least seventy-five million dollars (\$75,000,000) in private funds has
3 been or will be invested by one or more owners, users, or tenants of
4 the datacenter within five years of the date the owner, user, or tenant
5 of the datacenter makes its first real or tangible property investment
6 in the datacenter on or after January 1, 2012. Investments in real or
7 tangible property in the datacenter made prior to January 1, 2012,
8 may not be included in the investment required by this subdivision.
- 9 ~~(33a)~~(33d) Real property contractor. – A person that contracts to perform
10 construction, reconstruction, installation, repair, or any other service with
11 respect to real property and to furnish tangible personal property to be
12 installed or applied to real property in connection with the contract and the
13 labor to install or apply the tangible personal property that becomes part of
14 real property. The term includes a general contractor, a subcontractor, or a
15 builder for purposes of G.S. 105-164.4H.
- 16 ~~(33b)~~(33e) Related member. – Defined in G.S. 105-130.7A.
- 17 ~~(33e)~~(33f) Remote sale. – A sale of tangible personal property or digital property
18 ordered by mail, by telephone, via the Internet, or by another similar method,
19 to a purchaser who is in this State at the time the order is remitted, from a
20 retailer who receives the order in another state and delivers the property or
21 causes it to be delivered to a person in this State. It is presumed that a
22 resident of this State who remits an order was in this State at the time the
23 order was remitted.

24 "

25 **SECTION 3.(b)** G.S. 105-164.13 is amended by adding a new subdivision to read:

26 "~~(55a)~~ Sales of electricity for use at a qualifying datacenter and datacenter support
27 equipment to be located and used at the qualifying datacenter. As used in
28 this subdivision, "datacenter support equipment" is property that is
29 capitalized for tax purposes under the Code and is used for one of the
30 following purposes:

- 31 a. The provision of a service or function included in the business of an
32 owner, user, or tenant of the datacenter.
- 33 b. The generation, transformation, transmission, distribution, or
34 management of electricity, including exterior substations, generators,
35 transformers, unit substations, uninterruptible power supply systems,
36 batteries, power distribution units, remote power panels, and other
37 capital equipment used for these purposes.
- 38 c. HVAC and mechanical systems, including chillers, cooling towers,
39 air handlers, pumps, and other capital equipment used for these
40 purposes.
- 41 d. Hardware and software for distributed and mainframe computers and
42 servers, data storage devices, network connectivity equipment, and
43 peripheral components and equipment.
- 44 e. To provide related computer engineering or computer science
45 research.

46 If the level of investment required by G.S. 105-164.3(33c) is not timely
47 made, the exemption provided under this subdivision is forfeited. If the level
48 of investment required by G.S. 105-164.3(33c) is timely made but any
49 specific datacenter support equipment is not located and used at the
50 qualifying datacenter, the exemption provided for such datacenter support
51 equipment under this subdivision is forfeited. If the level of investment

1 required by G.S. 105-164.3(33c) is timely made but any portion of electricity
 2 is not used at the qualifying datacenter, the exemption provided for such
 3 electricity under this subdivision is forfeited. A taxpayer that forfeits an
 4 exemption under this subdivision is liable for all past taxes avoided as a
 5 result of the forfeited exemption, computed from the date the taxes would
 6 have been due if the exemption had not been allowed, plus interest at the rate
 7 established under G.S. 105-241.21. If the forfeiture is triggered due to the
 8 lack of a timely investment required by G.S. 105-164.3(33c), interest is
 9 computed from the date the taxes would have been due if the exemption had
 10 not been allowed. For all other forfeitures, interest is computed from the
 11 time as of which the datacenter support equipment or electricity was put to a
 12 disqualifying use. The past taxes and interest are due 30 days after the date
 13 the exemption is forfeited. A taxpayer that fails to pay the past taxes and
 14 interest by the due date is subject to the provisions of G.S. 105-236."

15 **SECTION 3.(c)** This section becomes effective January 1, 2016, and applies to
 16 sales made on or after that date.

18 **PART IV. SALES TAX RELATIVE TO AVIATION**

19 **SECTION 4.1.(a)** G.S. 105-164.3 is amended by adding the following new
 20 subdivisions to read:

21 **"§ 105-164.3. Definitions.**

22 The following definitions apply in this Article:

23 ...

24 (1h) Aviation gasoline. – Defined in G.S. 105-449.60.

25 ...

26 (16b) Jet fuel. – Defined in G.S. 105-449.60.

27 "

28 **SECTION 4.1.(b)** G.S. 105-164.4(a) is amended by adding a new subdivision to
 29 read:

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

34 ...

35 (15) The combined general rate applies to the gross receipts derived from the sale
 36 of aviation gasoline and jet fuel."

37 **SECTION 4.1.(c)** G.S. 105-164.13 is amended by adding a new subdivision to
 38 read:

39 **"§ 105-164.13. Retail sales and use tax.**

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

43 ...

44 Motor Fuels Group.

45 ...

46 (11a) Sales of diesel fuel to railroad companies for use in rolling stock other than
 47 motor vehicles. The definitions in G.S. 105-333 apply in this subdivision.

48 (11b) Sales of aviation gasoline and jet fuel to an interstate air business for use in a
 49 commercial aircraft. For purposes of this subdivision, the term "commercial
 50 aircraft" has the same meaning as defined in subdivision (45a) of this
 51 subsection. This subdivision expires January 1, 2020.

1"
 2 SECTION 4.1.(d) Part 8 of Article V of Chapter 105 of the General Statutes is
 3 amended by adding a new section to read:

4 "**§ 105-164.44M. Transfer to Division of Aviation.**

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

10 SECTION 4.1.(e) Notwithstanding G.S. 105-164.14A(a)(1), an interstate
 11 passenger air carrier is allowed a refund of the sales and use tax paid by it on fuel in excess of
 12 one million two hundred fifty thousand dollars (\$1,250,000) for the period beginning July 1,
 13 2015, and ending December 31, 2015.

14 SECTION 4.1.(f) Subsections (a) through (d) of this section become effective
 15 January 1, 2016, and apply to sales made on or after that date. The remainder of this section is
 16 effective when this act becomes law.

17 SECTION 4.2.(a) G.S. 105-164.3, as amended by Section 3 of this act, is amended
 18 by adding the following new subdivisions to read:

19 "**§ 105-164.3. Definitions.**

20 The following definitions apply in this Article:

21 ...

22 (33a) Qualified aircraft. – An aircraft with a maximum take-off weight of more
 23 than 9,000 pounds but not in excess of 15,000 pounds.

24 (33b) Qualified jet engine. – An engine certified pursuant to Part 33 of Title 14 of
 25 the Code of Federal Regulations.

26"

27 SECTION 4.2.(b) G.S. 105-164.4(a) reads as rewritten:

28 "**§ 105-164.4. Tax imposed on retailers.**

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

33 (1a) The general rate applies to the sales price of each ~~manufactured home of the~~
 34 ~~following items~~ sold at retail, including all accessories attached to ~~the~~
 35 ~~manufactured home~~ the item when it is delivered to the ~~purchaser~~ purchaser:

36 a. A manufactured home.

37 b. A modular home. The sale of a modular home to a modular
 38 homebuilder is considered a retail sale. A person who sells a modular
 39 home at retail is allowed a credit against the tax imposed by this
 40 subdivision for sales or use tax paid to another state on tangible
 41 personal property incorporated in the modular home. The retail sale
 42 of a modular home occurs when a modular home manufacturer sells
 43 a modular home to a modular homebuilder or directly to the end user
 44 of the modular home.

45 c. An aircraft. The maximum tax is two thousand five hundred dollars
 46 (\$2,500) per article.

47 d. A qualified jet engine.

48 (1b) The rate of three percent (3%) applies to the sales price of each ~~aircraft or~~
 49 ~~boat~~ sold at retail, including all accessories attached to the ~~item~~ boat when it
 50 is delivered to the purchaser. The maximum tax is one thousand five
 51 hundred dollars (\$1,500) per article.

1 ...
 2 (8) ~~The general rate applies to the sales price of each modular home sold at~~
 3 ~~retail, including all accessories attached to the modular home when it is~~
 4 ~~delivered to the purchaser. The sale of a modular home to a modular~~
 5 ~~homebuilder is considered a retail sale. A person who sells a modular home~~
 6 ~~at retail is allowed a credit against the tax imposed by this subdivision for~~
 7 ~~sales or use tax paid to another state on tangible personal property~~
 8 ~~incorporated in the modular home. The retail sale of a modular home occurs~~
 9 ~~when a modular home manufacturer sells a modular home to a modular~~
 10 ~~homebuilder or directly to the end user of the modular home.~~

11"

12 **SECTION 4.2.(c)** G.S. 105-164.4I(b) is amended by adding a new subdivision to
 13 read:

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

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

25 **SECTION 4.2.(d)** G.S. 105-164.13 is amended by adding a new subdivision to
 26 read:

27 **"§ 105-164.13. Retail sales and use tax.**

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

- 31 ...
- 32 (45d) Parts and accessories for use in the repair or maintenance of a qualified
- 33 aircraft or a qualified jet engine.

34"

35 **SECTION 4.2.(e)** G.S. 105-164.27A is amended by adding a new subsection to
 36 read:

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

43 **SECTION 4.2.(f)** G.S. 105-467(a) reads as rewritten:

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

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

50"

1 **SECTION 4.2.(g)** This Part becomes effective October 1, 2015, and applies to
2 sales made on or after that date.

3
4 **PART V. EXEMPT MOTOR VEHICLE SERVICE CONTRACTS FROM SALES TAX**

5 **SECTION 5.(a)** G.S. 105-164.4I(b)(1) reads as rewritten:

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

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

10 **SECTION 5.(b)** G.S. 105-164.13 is amended by adding a new subdivision to read:
11 **"§ 105-164.13. Retail sales and use tax.**

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

15 ...

16 (62a) A replacement item, a repair part, or repair, maintenance, and installation
17 services to maintain or repair tangible personal property or a motor vehicle
18 pursuant to a manufacturer's warranty or a dealer's warranty. For purposes of
19 this subdivision, the following definitions apply:

20 a. Dealer's warranty. – An explicit warranty the seller of an item
21 extends to the purchaser of the item as part of the purchase price of
22 the item.

23 b. Manufacturer's warranty. – An explicit warranty the manufacturer of
24 an item extends to the purchaser of the item as part of the purchase
25 price of the item."

26 **SECTION 5.(c)** If House Bill 97, 2015 Regular Session of the General Assembly,
27 becomes law, then G.S. 105-164.13(61a), as enacted by Section 32.18(e) of House Bill 97,
28 2015 Regular Session of the General Assembly, and G.S. 105-164.13(62), as amended by S.L.
29 2015-6 and by House Bill 97, 2015 Regular Session of the General Assembly, read as
30 rewritten:

31 **"§ 105-164.13. Retail sales and use tax.**

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

35 ...

36 (61a) Repair, maintenance, and installation services provided for an ~~item~~ item,
37 other than a motor vehicle, for which a service contract on the item is
38 exempt from tax under G.S. 105-164.4I. Repair, maintenance, and
39 installation services provided for a motor vehicle are subject to tax, except as
40 provided under subdivision (62a) of this subsection.

41 ...

42 (62) An item or repair, maintenance, and installation services used to maintain or
43 repair tangible personal property ~~or a motor vehicle~~ pursuant to a service
44 contract taxable under this Article if the purchaser of the contract is not
45 charged for the ~~item~~ item or services. This exemption does not apply to an
46 item or repair, maintenance, and installation services provided for a motor
47 vehicle pursuant to a service contract exempt from tax under this Article
48 unless the purchaser of the contract is not charged for the item or services.
49 For purposes of this exemption, the term "item" does not include a tool,
50 equipment, supply, or similar tangible personal property used to complete
51 the maintenance or repair and that is not deemed to be a component or repair

1 part of the tangible personal property ~~or motor vehicle~~ for which a service
2 contract is sold to a purchaser."

3 **SECTION 5.(d)** G.S. 105-187.3(a) reads as rewritten:

4 "(a) Tax Base. – The tax imposed by this Article is applied to the sum of the retail value
5 of a motor vehicle for which a certificate of title is issued and any fee regulated by
6 G.S. 20-101.1. The tax does not apply to the sales price of a service contract. The sales price of
7 a service contract is subject to the sales tax imposed under Article 5 of this Chapter, contract,
8 provided the charge is separately stated on the bill of sale or other similar document given to
9 the purchaser at the time of the sale."

10 **SECTION 5.(e)** G.S. 105-187.5(a) reads as rewritten:

11 "(a) Election. – A retailer may elect not to pay the tax imposed by this Article at the rate
12 set in G.S. 105-187.3 when applying for a certificate of title for a motor vehicle purchased by
13 the retailer for lease or rental. A retailer who makes this election shall pay a tax on the gross
14 receipts of the lease or rental of the vehicle. The portion of a lease or rental billing or payment
15 that represents any amount applicable to the sales price of ~~or sales tax on~~ a service contract sold
16 ~~at retail that is subject to the tax imposed by Article 5 of this Chapter and sourced to this State~~
17 as defined in G.S. 105-164.3 should not be included in the gross receipts subject to the tax
18 imposed by this Article. The amount of the lease or rental billing or payment applicable to the
19 sales price of or sales tax on a service contract sold at retail subject to the tax imposed by
20 Article 5 of this Chapter and sourced to the State. The charge should be separately stated on
21 documentation given to the purchaser at the time the lease or rental agreement goes into effect,
22 or on the monthly billing statement or other documentation given to the purchaser. Where a
23 retailer fails to separately state any portion of a lease or rental billing or payment that represents
24 an amount applicable to the sale price of a service contract, the amount is deemed to be part of
25 the gross receipts of a lease or rental of a vehicle. Like the tax imposed by G.S. 105-187.3, this
26 alternate tax is a tax on the privilege of using the highways of this State. The tax is imposed on
27 a retailer, but is to be added to the lease or rental price of a motor vehicle and thereby be paid
28 by the person who leases or rents the vehicle."

29 **SECTION 5.(f)** This section becomes effective March 1, 2016, and applies to
30 service contracts purchased on or after date, if House Bill 97 of the 2015 Regular Session of the
31 General Assembly is enacted.

32 33 **PART VI. EXTEND SALES TAX PREFERENCES FOR MOTORSPORTS PARTS** 34 **AND FUEL**

35 **SECTION 6.(a)** G.S. 105-164.3 is amended by adding a new subdivision to read:

36 "**§ 105-164.3. Definitions.**

37 The following definitions apply in this Article:

38 ...

39 (25a) Operator. – A person provided with the lease or rental of tangible personal
40 property or a motor vehicle to operate, drive, or maneuver the tangible
41 personal property or motor vehicle and whose presence, skill, knowledge,
42 and expertise are necessary to bring about a desired or appropriate effect.
43 The person must do more than calibrate, test, analyze, research, probe, or
44 monitor the tangible personal property or motor vehicle.

45"

46 **SECTION 6.(b)** G.S. 105-164.13 is amended by adding a new subdivision to read:

47 "**§ 105-164.13. Retail sales and use tax.**

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

51 ...

1 (65) The sale of an engine provided with an operator to a professional
 2 motorsports racing team or a related member of a team for use in
 3 competition in a sanctioned race series. This subdivision expires January 1,
 4 2020."

5 **SECTION 6.(c)** G.S. 105-164.4I(b)(3) reads as rewritten:

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

8 ...

9 (3) ~~An-A transmission, an engine, rear-end gears, and any other~~ item purchased
 10 by a professional motorsports racing team or a related member of a team for
 11 which the team may receive a sales tax refund under
 12 ~~G.S. 105-164.14A(5):~~G.S. 105-164.14A(a)(5). This subdivision expires
 13 January 1, 2020."

14 **SECTION 6.(d)** G.S. 105-164.14A(a) reads as rewritten:

15 "(a) Refund. – The following taxpayers are allowed an annual refund of sales and use
 16 taxes paid under this Article:

17 ...

18 (4) Motorsports team or sanctioning body. – A professional motorsports racing
 19 team, a motorsports sanctioning body, or a related member of such a team or
 20 body is allowed a refund of the sales and use tax paid by it in this State on
 21 aviation fuel that is used to travel to or from a motorsports event in this
 22 State, to travel to a motorsports event in another state from a location in this
 23 State, or to travel to this State from a motorsports event in another state. For
 24 purposes of this subdivision, a "motorsports event" includes a motorsports
 25 race, a motorsports sponsor event, and motorsports testing. This subdivision
 26 is repealed for purchases made on or after ~~January 1, 2016.~~January 1, 2020.

27 (5) Professional motorsports team. – A professional motorsports racing team or
 28 a related member of a team is allowed a refund of fifty percent (50%) of the
 29 sales and use tax paid by it in this State on tangible personal property, other
 30 than tires or accessories, that comprises any part of a professional
 31 motorsports vehicle. For purposes of this subdivision, "motorsports
 32 accessories" includes instrumentation, telemetry, consumables, and paint.
 33 This subdivision is repealed for purchases made on or after ~~January 1,~~
 34 ~~2016.~~January 1, 2020.

35 "

36 **SECTION 6.(e)** This section is effective when this act becomes law. Subsection (c)
 37 of this section applies retroactively to service contracts purchased on or after January 1, 2014.

38 **PART VII. TAX COMPLIANCE AND TAX FRAUD PREVENTION**

39 **SECTION 7.1.(a)** G.S. 105-163.7 reads as rewritten:

40 "**§ 105-163.7. Statement to employees; information to Secretary.**

41 (a) Report to Employee. – Every employer required to deduct and withhold from an
 42 employee's wages under G.S. 105-163.2 shall furnish to the employee in respect to the
 43 remuneration paid by the employer to such employee during the calendar year, on or before
 44 January 31 of the succeeding year, or, if the employment is terminated before the close of the
 45 calendar year, within 30 days after the date on which the last payment of remuneration is made,
 46 duplicate copies of a written statement showing the following:

- 47 (1) The employer's name, address, and taxpayer identification number.
 48 (2) The employee's ~~name~~name, address, and social security number.
 49 (3) The total amount of ~~wages~~wages or remuneration made.
 50 (4) The total amount deducted and withheld under G.S. 105-163.2.
 51

1 (b) ~~The Secretary may require an employer to include information not listed in~~
2 ~~subsection (a) on the employer's written statement to an employee and to file the statement at a~~
3 ~~time not required by subsection (a). Report to Secretary. – Every employer shall file an annual~~
4 ~~report with the Secretary that contains the information given on each of the employer's written~~
5 ~~statements to an employee and other information required by the Secretary. employee. The~~
6 ~~Secretary may require additional information to be included on the report, provided the~~
7 ~~Secretary has given a minimum of 90 days' notice of the additional information required. The~~
8 ~~annual report is due on the same date the employer's federal information return of federal~~
9 ~~income taxes withheld from wages is due under the Code. or before January 31 of the~~
10 ~~succeeding year and must be filed in an electronic format as prescribed by the Secretary. The~~
11 ~~Secretary may, upon a showing of good cause, waive the electronic submission requirement.~~
12 The report required by this subsection is in lieu of the report required by G.S. 105-154."

13 **SECTION 7.1.(b)** G.S. 105-236(a)(10) reads as rewritten:

14 "**§ 105-236. Penalties; situs of violations; penalty disposition.**

15 (a) Penalties. – The following civil penalties and criminal offenses apply:

16 ...

17 (10) Failure to File Informational Returns. –

18 a. Repealed by Session Laws 1998-212, s. 29A.14(m), effective
19 January 1, 1999.

20 b. The Secretary may request a person who fails to file timely
21 statements of payment to another person with respect to wages,
22 dividends, rents, or interest paid to that person to file the statements
23 by a certain date. If the payer fails to file the statements by that date,
24 the amounts claimed on the payer's income tax return as deductions
25 for salaries and wages, or rents or interest shall be disallowed to the
26 extent that the payer failed to comply with the Secretary's request
27 with respect to the statements.

28 c. For failure to file with the Secretary an informational return required
29 by ~~Article 36C or 36D~~ Article 4A, 36C, or 36D of this Chapter by the
30 date the return is due, there shall be assessed a penalty of fifty dollars
31 (\$50.00)."

32 **SECTION 7.1.(c)** G.S. 105-163.2A(b) reads as rewritten:

33 "(b) Withholding Required. – A pension payer required to withhold federal taxes under
34 section 3405 of the Code on a pension payment to a resident of this State must deduct and
35 withhold from the payment the State income taxes payable on the payment. Liability for
36 withholding and paying taxes under this section on a pension payment falls on the person who
37 would be liable under section 3405 of the Code for withholding federal taxes on the payment.

38 Except as otherwise provided in this section, the provisions of this Article apply to a
39 pension payer's pension payment to a resident of this State as if it were an employer's payment
40 of wages to an employee. The pension payer must file a return, pay the withheld taxes, and
41 report the amount withheld in the time and manner required under G.S. 105-163.6 and
42 G.S. 105-163.7 as if the pension payment were wages. If a pension payer has more than one
43 arrangement under which it may make pension payments to a resident of this State, each
44 arrangement must be treated separately under this section."

45 **SECTION 7.1.(d)** G.S. 105-163.2B reads as rewritten:

46 "**§ 105-163.2B. North Carolina State Lottery Commission must withhold taxes.**

47 The North Carolina State Lottery Commission, established by Chapter 18C of the General
48 Statutes, must deduct and withhold State income taxes from the payment of winnings in an
49 amount of six hundred dollars (\$600.00) or more. The amount of taxes to be withheld is a
50 percentage of the winnings. The percentage is the individual income tax rate in G.S. 105-153.7.
51 The Commission must file a return, pay the withheld taxes, and report the amount withheld in

1 the time and manner required under G.S. 105-163.6 and G.S. 105-163.7 as if the winnings were
2 wages. The taxes the Commission withholds are held in trust for the Secretary."

3 **SECTION 7.1.(e)** G.S. 105-163.3 reads as rewritten:

4 "**§ 105-163.3. Certain payers must withhold taxes.**

5 ...

6 (e) ~~Returns.—A payer must file a return with the Secretary and pay the withheld taxes~~
7 ~~to the Secretary in accordance with the requirements in G.S. 105-163.6.~~

8 (d) Returns, Annual Statement-Statement, and Report. – A payer required to deduct and
9 withhold from a contractor's compensation under this section must file a return, pay the
10 withheld taxes, and report the amount withheld in the time and manner required under
11 G.S. 105-163.6 and G.S. 105-163.7 as if the compensation were wages.~~give the contractor a~~
12 ~~written statement that sets out the following information and any other information required by~~
13 ~~the Secretary:~~

14 (1) ~~The payer's name, address, and taxpayer identification number.~~

15 (2) ~~The contractor's name, address, and taxpayer identification number.~~

16 (3) ~~The total amount of compensation paid during the calendar year.~~

17 (4) ~~The total amount deducted and withheld under this section during the~~
18 ~~calendar year.~~

19 ~~This statement is due by January 31 following the end of the calendar year, unless the personal~~
20 ~~services for which the payer is paying are completed before the end of the calendar year and the~~
21 ~~contractor requests the statement when the services are completed. In this circumstance, the~~
22 ~~statement is due within 45 days after the payer's last payment of compensation to the~~
23 ~~contractor.~~

24 ~~Each payer shall file with the Secretary an annual report that compiles the information~~
25 ~~contained in each of the payer's statements to contractors and any other information required by~~
26 ~~the Secretary in the manner required by the Secretary. This report is due on the date prescribed~~
27 ~~by the Secretary and is in lieu of the information report required by G.S. 105-154.~~

28"

29 **SECTION 7.1.(f)** Subsection (b) of this section is effective for taxable years
30 beginning on or after January 1, 2016, and applies to information returns required to be filed
31 with the Secretary in 2017 for the 2016 taxable year. The remainder of this section is effective
32 for taxable years beginning on or after January 1, 2015, and applies to information returns
33 required to be filed with the Secretary in 2016 for the 2015 taxable year.

34 **SECTION 7.2.** G.S. 105-237 reads as rewritten:

35 "**§ 105-237. ~~Waiver of penalties;~~Waiver; installment payments.**

36 (a) Waiver. – The Secretary may, upon making a record of the reasons therefor, ~~reduce~~
37 do the following:

38 (1) Reduce or waive any penalties provided for in this Subchapter.

39 (2) Reduce or waive any interest provided for in this Subchapter on taxes
40 imposed prior to or during a period for which a taxpayer has declared
41 bankruptcy under Chapter 7 or Chapter 13 of Title 11 of the United States
42 Code.

43 (b) Installment Payments. – After a proposed assessment of a tax becomes final, the
44 Secretary may enter into an agreement with the taxpayer for payment of the tax in installments
45 if the Secretary determines that the agreement will facilitate collection of the tax. The
46 agreement may include a waiver of penalties but may not include a waiver of liability for tax or
47 interest due. The Secretary may modify or terminate the agreement if one or more of the
48 following findings is made:

49 (1) Information provided by the taxpayer in support of the agreement was
50 inaccurate or incomplete.

51 (2) Collection of tax to which the agreement applies is in jeopardy.

1 (3) The taxpayer's financial condition has changed.

2 (4) The taxpayer has failed to pay an installment when due or to pay another tax
3 when due.

4 (5) The taxpayer has failed to provide information requested by the Secretary.

5 The Secretary must give a taxpayer who has entered into an installment agreement at least
6 30 days' written notice before modifying or terminating the agreement on the grounds that the
7 taxpayer's financial condition has changed unless the taxpayer failed to disclose or concealed
8 assets or income when the agreement was made or the taxpayer has acquired assets since the
9 agreement was made that can satisfy all or part of the tax liability. A notice must specify the
10 basis for the Secretary's finding of a change in the taxpayer's financial condition."

11 **SECTION 7.3.(a)** Article 9 of Subchapter I of Chapter 105 of the General Statutes
12 is amended by adding a new section to read:

13 **"§ 105-251.2. Compliance information requests.**

14 (a) Occupational Licensing Board. – An occupational licensing board must give
15 information to the Secretary when the Secretary requests the information. The Secretary may
16 not request the information more than one time per calendar year. The Secretary may request
17 the board to provide on a return, a report, or otherwise, a licensee's name, license number, tax
18 identification number, business address, and any other information pertaining to the licensee in
19 possession of the board that the Secretary deems necessary to determine the licensee's
20 compliance with this Chapter. For purposes of this subsection, the term "occupational licensing
21 board" has the same meaning as defined in G.S. 93B-1.

22 (b) Alcohol Vendor. – An alcohol vendor must give information to the Secretary when
23 the Secretary requests the information. The Secretary may not request the information more
24 than one time per calendar year. The Secretary may request the alcohol vendor to provide on a
25 return, a report, or otherwise, for a permittee to which the alcohol vendor provides alcohol, a
26 permittee's name, license number, and business address and any other information pertaining to
27 the permittee in possession of the alcohol vendor that the Secretary deems necessary to
28 determine the permittee's compliance with this Chapter. This subsection applies to the following
29 alcohol vendors:

30 (1) An ABC store in the ABC system, as defined in G.S. 18B-101.

31 (2) A wine wholesaler, as defined in G.S. 18B-1201.

32 (3) A wholesaler, as defined in G.S. 18B-1301.

33 (4) The holder of an unfortified winery permit, a fortified winery permit, a
34 brewery permit, or a distillery permit under G.S. 18B-1100."

35 **SECTION 7.3.(b)** Beginning March 1, 2016, and every six months thereafter, the
36 Department of Revenue and the Government Data Analytics Center must make written
37 progress reports to the Revenue Laws Study Committee on the following:

38 (1) Prevention or reduction of the occurrence of stolen identities and refund
39 fraud.

40 (2) Elimination of fraudulent returns.

41 (3) Tax compliance by business professionals and alcohol vendors.

42 (4) Coordination of efforts between the Department of Revenue and the
43 Government Data Analytics Center to identify and integrate into the
44 Department's operations and procedures the most effective and accurate
45 processes and scalable tools available to reduce refund fraud, payment of
46 fraudulent returns, and business tax compliance.

47 **SECTION 7.3.(c)** Subsection (a) of this section becomes effective July 1, 2016.
48 The remainder of this section is effective when this act becomes law.

49
50 **PART VIII. EFFECTIVE DATE**

1 **SECTION 8.** Except as otherwise provided, this act is effective when it becomes
2 law.