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Short Title: Various Changes to the Revenue Laws.

(Public)

Sponsors:

Referred to:

March 30, 2015

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO THE REVENUE LAWS.
The General Assembly of North Carolina enacts:

PART I. BUSINESS TAX CHANGES

SECTION 1.1.(a) G.S. 105-121.1 is repealed.

SECTION 1.1.(b) This section is effective for taxes due on or after April 1, 2016.

SECTION 1.2. G.S. 105-129.26(a) reads as rewritten:

"(a) Major Recycling Facility. – A recycling facility qualifies for the tax benefits provided in this Article and in ~~Article 5~~ Articles 5 and 5F of this Chapter for major recycling facilities if it meets all of the following conditions:

...."

SECTION 1.3.(a) G.S. 105-130.4(s) reads as rewritten:

"(s) All apportionable income of an air transportation corporation or a water transportation corporation shall be apportioned by a fraction, the numerator of which is the corporation's revenue ton miles in this State and the denominator of which is the corporation's revenue ton miles everywhere. A qualified air freight forwarder shall use the revenue ton mile fraction of its affiliated air carrier. The following definitions apply in this subsection:

(1) Air carrier. – A corporation engaged in the business of transporting any combination of passengers or property of any kind by aircraft in interstate commerce, and the majority of the air carrier's revenue ton miles everywhere are attributed to transportation by aircraft.

(2) Air transportation corporation. – One or more of the following:

a. An air carrier that carries any combination of passengers or property of any kind.

b. A qualified air freight forwarder.

(3) Qualified air freight forwarder. – A corporation that is an affiliate of an air carrier and whose air freight forwarding business is primarily carried on with the affiliated air carrier.

(4) The term "revenue ton mile" means one mile. – One ton of passengers, freight, mail, or other cargo carried one mile by the air transportation corporation or water transportation corporation by aircraft,



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motor vehicle, or vessel. In making this computation, a passenger is considered to weigh two hundred pounds."

SECTION 1.3.(b) This section is effective for taxable years beginning on or after January 1, 2015.

SECTION 1.4. G.S. 105-228.5(b)(4) reads as rewritten:

"(b) Tax Base. –

...

(4) Self-insurers. – The tax imposed by this section on a self-insurer shall be measured by the gross premiums that would be charged against the same or most similar industry or business, taken from the manual insurance rate then in force in this State, applied to the self-insurer's payroll for the previous calendar year as determined under ~~Article 2 of Chapter 97~~ Article 36 of Chapter 58 of the General Statutes modified by the self-insurer's approved experience modifier."

SECTION 1.5. G.S. 105-130.7A(a) reads as rewritten:

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

PART II. PERSONAL TAX CHANGES

SECTION 2.1.(a) G.S. 105-153.5(a)(2), reads as rewritten:

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

...

(2) Itemized deduction amount. – An amount equal to the sum of the items listed in this subdivision. The amounts allowed under this subdivision are not subject to the overall limitation on itemized deductions under section 68 of the Code:

...

d. Repayment in the current taxable year of an amount included in adjusted gross income in an earlier taxable year because it appeared that the taxpayer had an unrestricted right to such item, to the extent the repayment is not deducted in arriving at adjusted gross income in the current taxable year. If the repayment is three thousand dollars (\$3,000) or less, the deduction is the amount of repayment less (i) the limitation provided under section 67(a) of the Code minus (ii) all other items deductible under section 67(b) of the Code, not to exceed the limitation provided under section 67(a) of the Code. If the repayment is more than three thousand dollars (\$3,000), the deduction is the amount of repayment. No deduction is allowed if the

taxpayer calculates the federal income tax for the year of repayment under section 1341(a)(5) of the Code.

e. The amount allowed as a deduction for wagering losses under section 165(d) of the Code, to the extent the losses are not deducted in arriving at adjusted gross income."

SECTION 2.1.(b) G.S. 105-153.5(b) is amended by adding a new subdivision to read:

"(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

...

(10) The amount added to federal taxable income under section 108(i)(1) of the Code. This deduction applies to taxable years beginning on or after January 1, 2014."

SECTION 2.1.(c) This section is effective for taxable years beginning on or after January 1, 2014.

SECTION 2.2.(a) G.S. 105-153.5(c) is amended by adding a new subdivision to read:

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

...

(6) The amount of net operating loss carried to and deducted on the federal return but not absorbed in that year and carried forward to a subsequent year."

SECTION 2.2.(b) This section is effective for taxable years beginning on or after January 1, 2015.

SECTION 2.3. G.S. 105-163.1 reads as rewritten:

"§ 105-163.1. Definitions.

The following definitions apply in this Article:

...

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

...

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

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

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

...."

PART III. SALES TAX CHANGES

SECTION 3.1. Section 2.4 of S.L. 2014-66 reads as rewritten:

"SECTION 2.4. ~~Sections 2.1~~ Section 2.1 of this act becomes effective July 1, 2013. ~~Sections 2.2~~ through 2.4 of this act become effective July 1, 2014. The remainder of this act is effective when it becomes law."

SECTION 3.2.(a) G.S. 105-164.3 reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

- ...
- (3) ~~Clothing.— All human wearing apparel suitable for general use including coats, jackets, hats, hosiery, scarves, and shoes.~~
- (4) ~~Clothing accessories or equipment.— Incidental items worn on the person or in conjunction with clothing including jewelry, cosmetics, eyewear, wallets, and watches.~~
- ...
- (8g) ~~Energy Star qualified product.— A product that meets the energy efficient guidelines set by the United States Environmental Protection Agency and the United States Department of Energy and is authorized to carry the Energy Star label.~~
- ...
- (25a)(25b) Other direct mail. – Any direct mail that is not advertising and promotional mail regardless of whether advertising and promotional direct mail is included in the same mailing.
- (25b)(25c) Over-the-counter drug. – A drug that contains a label that identifies the product as a drug as required by 21 C.F.R. § 201.66. The label includes either of the following:
- A "Drug Facts" panel.
 - A statement of its active ingredients with a list of those ingredients contained in the compound, substance, or preparation.
- ...
- (28) Prepared food. – Food that meets at least one of the conditions of this subdivision. Prepared food does not include food the retailer sliced, repackaged, or pasteurized but did not heat, mix, or sell with eating utensils.
- ...
- It is sold with eating utensils provided by the retailer, such as plates, knives, forks, spoons, glasses, cups, napkins, and straws. A plate does not include a container or packaging used to transport the food.
- ...
- (37b) ~~School instructional material.— Written material commonly used by a student in a course of study as a reference and to learn the subject being taught. The following is an all-inclusive list:~~
- ~~Reference books.~~
 - ~~Reference maps and globes.~~
 - ~~Textbooks.~~
 - ~~Workbooks.~~
- (37d) ~~School supply.— An item that is commonly used by a student in the course of study and is considered a "school supply" or "school art supply" under the Streamlined Agreement.~~
- ...
- (42) ~~Sport or recreational equipment.— Items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use including ballet shoes, cleated athletic shoes, shin guards, and ski boots.~~
- ...
- (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax Agreement as amended as of ~~October 30, 2013~~ May 13, 2015.
-"

SECTION 3.2.(b) G.S. 105-164.3 reads as rewritten:

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

(44) Storage. – The keeping or retention in this State for any purpose, except sale in the regular course of business, of tangible personal property or digital property for any period of time purchased from a person in business. ~~retailer. The term does not include a purchaser's storage of tangible personal property or digital property in any of the following circumstances:~~

a. ~~When the purchaser is able to document that at the time the purchaser acquires the property the property is designated for the purchaser's use outside the State and the purchaser subsequently takes it outside the State and uses it solely outside the State.~~

b. ~~When the purchaser acquires the property to process, fabricate, manufacture, or otherwise incorporate it into or attach it to other property for the purchaser's use outside the State and, after incorporating or attaching the purchased property, the purchaser subsequently takes the other property outside the State and uses it solely outside the State.~~

...."

SECTION 3.2.(c) Subsection (b) of this section becomes effective January 1, 2016. The remainder of this section is effective when this act becomes law.

SECTION 3.3. G.S. 105-164.4B(e) reads as rewritten:

"(e) Accommodations. – The rental of an accommodation, as defined in ~~G.S. 105-164.4(a)(3)~~, G.S. 105-164.4F, is sourced to the location of the accommodation."

SECTION 3.4. G.S. 105-164.4G(b) reads as rewritten:

"(b) Tax. – The gross receipts derived from an admission charge to an entertainment activity are taxed at the general rate set in G.S. 105-164.4. The tax is due and payable by the retailer in accordance with G.S. 105-164.16. For purposes of the tax imposed by this section, the retailer is the applicable person listed below:

(1) The operator of the venue where the entertainment activity occurs, unless the retailer and the facilitator have a contract between them allowing for dual remittance, as provided in subsection (d) of this section.

(2) The person that provides the entertainment and that receives admission charges directly from a purchaser.

(3) A person other than a person listed in subdivision (1) or (2) of this subsection that receives gross receipts derived from an admission charge sold at retail."

SECTION 3.5. G.S. 105-164.4H(b) reads as rewritten:

"(b) Retailer-Contractor. – This section applies to a retailer-contractor when the retailer-contractor acts as a real property contractor. A retailer-contractor that purchases tangible personal property to be installed or affixed-applied to real property may purchase items exempt from tax under a certificate of exemption pursuant to G.S. 105-164.28 provided the retailer-contractor also purchases inventory items from the seller for resale. When the tangible personal property is withdrawn from inventory and installed or affixed-applied to real property, use tax must be accrued and paid on the retailer-contractor's purchase price of the tangible personal property. Tangible personal property that the retailer-contractor withdraws from inventory for use that does not become part of real property is also subject to the tax imposed by this Article.

If a retailer-contractor subcontracts any part of the real property contract, tax is payable by the subcontractor on the subcontractor's purchase of the tangible personal property that is installed or affixed-applied to real property in fulfilling the contract. The retailer-contractor, the

subcontractor, and the owner of the real property are jointly and severally liable for the tax. The liability of a retailer-contractor, a subcontractor, or an owner who did not purchase the property is satisfied by receipt of an affidavit from the purchaser certifying that the tax has been paid."

SECTION 3.6. G.S. 105-164.4I(a)(3) reads as rewritten:

"(a) Tax. – The sales price of or the gross receipts derived from a service contract or the renewal of a service contract sold at retail is subject to the general rate of tax set in G.S. 105-164.4 and is sourced in accordance with the sourcing principles in G.S. 105-164.4B. The retailer of a service contract is required to collect the tax due at the time of the retail sale of the contract and is liable for payment of the tax. The tax is due and payable in accordance with G.S. 105-164.16.

The retailer of a service contract is the applicable person listed below:

- ...
- (3) When a service contract is sold at retail to a purchaser by a facilitator on behalf of the obligor under the contract and there is an agreement between the facilitator and the obligor that states the obligor will be liable for the payment of the tax, the obligor is the retailer. The facilitator must send the retailer the tax due on the sales price of or gross receipts derived from the service contract no later than 10 days after the end of each calendar month. The retailer must report for the prior reporting period all tax received from the facilitator on or after the first day of the month but before the tenth day of the month. A facilitator that does not send the retailer the tax due on the sales price or gross receipts is liable for the amount of tax the facilitator fails to send. A facilitator is not liable for tax sent to a retailer but not remitted by the retailer to the Secretary. Tax payments received by a retailer from a facilitator are held in trust by the retailer for remittance to the Secretary. A retailer that receives a tax payment from a facilitator must remit the amount received to the Secretary. A retailer is not liable for tax due but not received from a facilitator. The requirements imposed by this subdivision on a retailer and a facilitator are considered terms of the agreement between the retailer and the facilitator."

SECTION 3.7.(a) G.S. 105-164.4D(b) reads as rewritten:

"(b) Determining Threshold. – A retailer of a bundled transaction subject to this section may use either the retailer's ~~cost~~ purchase price or the retailer's sales price to determine if the transaction meets the fifty percent (50%) test or the ten percent (10%) test set out in subdivisions (a)(1) and (a)(3) of this section. A retailer may not use a combination of ~~cost~~ purchase price and sales price to make this determination. If a bundled transaction subject to subdivision (a)(3) of this section includes a service contract, the retailer must use the full term of the contract in determining whether the transaction meets the threshold set in the subdivision."

SECTION 3.7.(b) G.S. 105-468 reads as rewritten:

"§ 105-468. Scope of use tax.

The use tax authorized by this Article is a tax at the rate of one percent (1%) of the ~~cost~~ purchase price of each item or article of tangible personal property that is not sold in the taxing county but is used, consumed, or stored for use or consumption in the taxing county. The tax applies to the same items that are subject to tax under G.S. 105-467. The collection and administration of this tax shall be in accordance with Article 5 of Chapter 105 of the General Statutes.

Where a local sales or use tax was due and has been paid with respect to tangible personal property by the purchaser in another taxing county within the State, or where a local sales or use tax was due and has been paid in a taxing jurisdiction outside the State where the purpose of the tax is similar in purpose and intent to the tax which may be imposed pursuant to this

Article, the tax paid may be credited against the tax imposed under this section by a taxing county upon the same property. If the amount of sales or use tax so paid is less than the amount of the use tax due the taxing county under this section, the purchaser shall pay to the Secretary an amount equal to the difference between the amount so paid in the other taxing county or jurisdiction and the amount due in the taxing county. The Secretary may require such proof of payment in another taxing county or jurisdiction as is deemed to be necessary. The use tax levied under this Article is not subject to credit for payment of any State sales or use tax not imposed for the benefit and use of counties and municipalities. No credit shall be given under this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this Article."

SECTION 3.7.(c) G.S. 105-471 reads as rewritten:

"§ 105-471. Retailer to collect sales tax.

Every retailer whose place of business is in a taxing county shall on and after the levy of the tax herein authorized collect the one percent (1%) local sales tax provided by this Article.

The tax to be collected under this Article shall be collected as a part of the sales price of the item of tangible personal property sold, the ~~cost-purchase~~ price of the item of tangible personal property used, or as a part of the charge for the rendering of any services, renting or leasing of tangible personal property, or the furnishing of any accommodation taxable hereunder. The tax shall be stated and charged separately from the sales price or ~~cost-purchase~~ price and shall be shown separately on the retailer's sales record and shall be paid by the purchaser to the retailer as trustee for and on account of the State or county wherein the tax is imposed. It is the intent and purpose of this Article that the local sales and use tax herein authorized to be imposed and levied by a taxing county shall be added to the sales price and that the tax shall be passed on to the purchaser instead of being borne by the retailer. The Secretary of Revenue shall design, print and furnish to all retailers in a taxing county in which he shall collect and administer the tax the necessary forms for filing returns and instructions to insure the full collection from retailers, and the Secretary may adapt the present form used for the reporting and collecting of the State sales and use tax to this purpose."

SECTION 3.8.(a) G.S. 105-164.12B reads as rewritten:

"§ 105-164.12B. Tangible personal property sold below cost with conditional ~~service~~ contract.

(a) ~~Conditional Service-Contract Defined.~~ – A conditional ~~service~~-contract is a contract in which all of the following conditions are met:

- (1) A seller transfers an item of tangible personal property to a consumer on the condition that the consumer enter into an agreement to purchase services on an ongoing basis for a minimum period of at least six months.
- (2) The agreement requires the consumer to pay a cancellation fee to the seller if the consumer cancels the contract for services within the minimum period.
- (3) For the item transferred, the seller charges the consumer a price that, after any price reduction the seller gives the consumer, is below the purchase price the seller paid for the item. The seller's purchase price is presumed to be no greater than the price the seller paid, as shown on the seller's purchase invoice, for the same item within 12 months before the seller entered into the conditional ~~service~~-contract.

(b) ~~Tax.~~ – If a seller transfers an item of tangible personal property as part of a conditional ~~service~~-contract, a sale has occurred. The sales price of the item is presumed to be the retail price at which the item would sell in the absence of the conditional ~~service~~-contract. Sales tax at the general rate under G.S. 105-164.4(a) is due at the time of the transfer on the following:

- (1) Any part of the presumed sales price the consumer pays at that time, if the service in the contract is taxable at the combined general rate.

(2) The presumed sales price, if the service in the contract is not taxable at the combined general rate.

(3) The percentage of the presumed sales price that is equal to the percentage of the service in the contract that is not taxable at the combined general rate if any part of the service in the contract is not taxable at the combined general rate, plus the amount under subdivision (1) of this subsection.

(c)-(f) Repealed by Session Laws 2007-244, s. 3, effective October 1, 2007."

SECTION 3.8.(b) G.S. 105-467(a) is amended by adding a new subdivision to read:

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

...

(8) The presumed sales price of an item of tangible personal property under G.S. 105-164.12B."

SECTION 3.8.(c) G.S. 105-164.4D(b) reads as rewritten:

"(b) Determining Threshold. – A retailer of a bundled transaction subject to this section may use either the retailer's cost price or the retailer's sales price to determine if the transaction meets the fifty percent (50%) test or the ten percent (10%) test set out in subdivisions (a)(1) and (a)(3) of this section. A retailer may not use a combination of cost price and sales price to make this determination. If a bundled transaction subject to subdivision (a)(3) of this section includes a ~~service contract~~, contract for service, the retailer must use the full term of the contract in determining whether the transaction meets the threshold set in the subdivision."

SECTION 3.9.(a) G.S. 105-164.13(34) is repealed.

SECTION 3.9.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

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

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

...

(26b) Food, prepared food, soft drinks, candy, and other items of tangible personal property sold not for profit for or at an event that is sponsored by an elementary or secondary school when the net proceeds of the sales will be given or contributed to the school or to a nonprofit charitable organization, one of whose purposes is to serve as a conduit through which the net proceeds will flow to the school. For purposes of this exemption, the term "school" is an entity regulated under Chapter 115C of the General Statutes.

...."

SECTION 3.9.(c) This section becomes effective January 1, 2016, and applies to sales made on or after that date.

SECTION 3.10. G.S. 105-164.13 reads as rewritten:

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

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

...

(49) Installation charges when the charges are separately stated and identified as such on an invoice or similar billing document given to the purchaser at the time of sale.

(49a) Delivery charges for delivery of direct mail if the charges are separately stated and identified as such on an invoice or similar billing document given to the purchaser at the time of sale.

...

(59) Interior design services provided in conjunction with the sale of tangible personal ~~property~~ property when the charges are separately stated and identified as such on an invoice or similar billing document given to the purchaser at the time of sale.

...."

SECTION 3.11.(a) G.S. 105-164.13(52) reads as rewritten:

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

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

...

(52) Items subject to sales and use tax under G.S. 105-164.4, other than electricity, telecommunications service, and ancillary service as defined in ~~G.S. 105-164.4, G.S. 105-164.3,~~ if all of the following conditions are met:

...."

SECTION 3.11.(b) G.S. 105-164.13(57), as amended by S.L. 2015-6, reads as rewritten:

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

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

...

(57) Fuel, piped natural gas, and electricity sold to a manufacturer for use in connection with the operation of a manufacturing facility. The exemption does not apply to fuel, piped natural gas, or electricity used at a facility at which the primary activity is not manufacturing."

SECTION 3.11.(c) Subsection (b) of this section becomes effective January 1, 2016. The remainder of this section is effective when it becomes law.

SECTION 3.12.(a) G.S. 105-164.13E(c), as enacted by S.L. 2015-6, reads as rewritten:

"(c) Contract with a Farmer. – A qualifying item listed in subdivisions (5), (8), and (9) of subsection (a) of this section purchased to fulfill a contract with a person who holds a qualifying farmer exemption certificate or a conditional farmer exemption certificate issued under G.S. 105-164.28A is exempt from sales and use tax to the same extent as if purchased directly by the person who holds the exemption certificate. A contractor that purchases one of the items allowed an exemption under this section must provide an exemption certificate to the retailer that includes the name of the ~~agricultural-qualifying farmer or conditional farmer~~ exemption certificate holder and the ~~agricultural-qualifying farmer or conditional farmer~~ exemption certificate number issued to that holder."

SECTION 3.12.(b) Section 2.13(b) of S.L. 2015-6 reads as rewritten:

"SECTION 2.13.(b) This section becomes effective July 1, 2014. A contractor who paid sales and use tax on an item exempt from sales and use tax pursuant to ~~G.S. 105-164.13(e), G.S. 105-164.13E(c),~~ as enacted by this section, may request a refund from the retailer, and the retailer may, upon issuance of the refund or credit, request a refund for the overpayment of tax under G.S. 105-164.11(a)(1)."

SECTION 3.13. G.S. 105-164.14(b) reads as rewritten:

"(b) Nonprofit Entities and Hospital Drugs. – A nonprofit entity is allowed a semiannual refund of sales and use taxes paid by it under this Article on direct purchases of tangible personal property and services for use in carrying on the work of the nonprofit entity. ~~Sales~~ Except as provided below, sales and use tax liability indirectly incurred by a nonprofit entity through reimbursement to an authorized person of the entity for the purchase of tangible personal property and services for use in carrying on the work of the nonprofit entity is considered a direct purchase by the entity. Sales and use tax liability indirectly incurred by a nonprofit entity on building materials, supplies, fixtures, and equipment that become a part of or annexed to any building or structure that is owned or leased by the nonprofit entity and is being erected, altered, or repaired for use by the nonprofit entity for carrying on its nonprofit activities is considered a sales or use tax liability incurred on direct purchases by the nonprofit entity. The refund allowed under this subsection does not apply to purchases of electricity, telecommunications service, ancillary service, piped natural gas, video programming, or a prepaid meal plan. The refund allowed under this subsection does not apply to purchases of prepared food or accommodation rentals for an employee or other authorized person unless the purchase is made directly by the nonprofit entity. A request for a refund must be in writing and must include any information and documentation required by the Secretary. A request for a refund for the first six months of a calendar year is due the following October 15; a request for a refund for the second six months of a calendar year is due the following April 15. The aggregate annual refund amount allowed an entity under this subsection for a fiscal year may not exceed thirty-one million seven hundred thousand dollars (\$31,700,000).

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

...."

SECTION 3.14. G.S. 105-164.14A(a)(3) is repealed.

SECTION 3.15. G.S. 105-164.22 reads as rewritten:

"§ 105-164.22. Record-keeping requirements, inspection authority, and effect of failure to keep records.

Retailers, wholesale merchants, and consumers must keep ~~for a period of three years~~ records that establish their tax liability under this Article. The Secretary or a person designated by the Secretary may inspect these records at any reasonable time during the day.

A retailer's records must include records of the retailer's gross income, gross sales, net taxable sales, and all items purchased for resale. Failure of a retailer to keep records that establish that a sale is exempt under this Article subjects the retailer to liability for tax on the sale.

A wholesale merchant's records must include a bill of sale for each customer that contains the name and address of the purchaser, the date of the purchase, the item purchased, and the price at which the wholesale merchant sold the item. Failure of a wholesale merchant to keep these records for the sale of an item subjects the wholesale merchant to liability for tax at the rate that applies to the retail sale of the item.

A consumer's records must include an invoice or other statement of the purchase price of an item the consumer purchased from outside the State. Failure of the consumer to keep these records subjects the consumer to liability for tax on the purchase price of the item, as determined by the Secretary."

SECTION 3.16. G.S. 105-164.30 reads as rewritten:

"§ 105-164.30. Secretary or agent may examine books, etc.

For the purpose of enforcing the collection of the tax levied by this Article, the Secretary or his duly authorized agent is authorized to examine at all reasonable hours during the day the

books, papers, records, documents or other data of all retailers or wholesale merchants bearing upon the correctness of any return or for the purpose of filing a return where none has been made as required by this Article, and may require the attendance of any person and take his testimony with respect to any such matter, with power to administer oaths to such person or persons. If any person summoned as a witness fails to obey any summons to appear before the Secretary or his authorized agent, or refuses to testify or answer any material question or to produce any book, record, paper, or other data when required to do so, the Secretary or his authorized agent shall report the failure or refusal to the Attorney General or the district solicitor, who shall thereupon institute proceedings in the superior court of the county where the witness resides to compel obedience to any summons of the Secretary or his authorized agent. Officers who serve summonses or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the superior courts, to be paid from the proper appropriation for the administration of this Article.

In the event any retailer or wholesale merchant fails or refuses to permit the Secretary or his authorized agent to examine his books, papers, accounts, records, documents or other data, the Secretary may require the retailer or wholesale merchant to show cause before the superior court of the county in which said taxpayer resides or has its principal place of business as to why the books, records, papers, ~~or documents~~ documents, or data should not be examined and the superior court shall have jurisdiction to enter an order requiring the production of all necessary books, records, papers, ~~or documents~~ documents, or data and to punish for contempt any person who violates the order."

SECTION 3.17.(a) G.S. 105-164.42L reads as rewritten:

"§ 105-164.42L. Liability relief for erroneous information or insufficient notice by Department.

(a) The Secretary may develop databases that provide information on the boundaries of taxing jurisdictions and the tax rates applicable to those taxing jurisdictions. A person who relies on the information provided in these databases is not liable for underpayments of tax attributable to erroneous information provided by the Secretary in those ~~databases~~ databases until 10 business days after the date of notification by the Secretary.

(b) The Secretary may develop a taxability matrix that provides information on the taxability of certain ~~items~~ items or certain tax administration practices. A person who relies on the information provided in the taxability matrix is not liable for underpayments of tax attributable to erroneous information provided by the Secretary in the taxability ~~matrix~~ until 10 business days after the date of notification by the Secretary.

...."

SECTION 3.17.(b) G.S. 105-466(c) reads as rewritten:

"(c) Collection of the tax, and liability therefor, must begin and continue only on and after the first day of a calendar quarter, as set by the board of county commissioners in the resolution levying the tax. ~~In no event may the tax be imposed, or the tax rate changed, earlier than the first day of the second succeeding calendar month after the date of the adoption of the resolution.~~ The county must give the Secretary at least 90 days advance notice of a new tax levy or tax rate change. The applicability of a new tax or a tax rate change to purchases from printed catalogs becomes effective on the first day of a calendar quarter after a minimum of 120 days from the date the Secretary notifies the seller that receives orders by means of a catalog or similar publication of the new tax or tax rate change. A local rate increase may only be effective on the first day of a calendar quarter after a minimum of 60 days' notice to sellers by the Secretary."

SECTION 3.18. G.S. 105-164.42I(b) reads as rewritten:

"(b) Contract. – The Secretary may contract or authorize in writing the Streamlined Sales Tax Governing Board to contract on behalf of the Secretary with a certified service provider for the collection and remittance of sales and use taxes. A certified service provider must file with

the Secretary or the Streamlined Sales Tax Governing Board ~~a bond or an irrevocable letter of credit~~ one of the following in the amount set by the ~~Secretary.~~ Secretary or the Streamlined Sales Tax Governing Board: (i) a bond, (ii) an irrevocable letter of credit, or (iii) evidence of a certificate of deposit. A ~~bond or bond,~~ irrevocable letter of ~~credit~~ credit, or certificate of deposit must be conditioned upon compliance with the contract, be payable to the State or the Streamlined Sales Tax Governing Board, and be in the form required by the ~~Secretary.~~ Secretary or the Streamlined Sales Tax Governing Board. The amount a certified service provider charges under the contract is a cost of collecting the tax and is payable from the amount collected."

SECTION 3.19.(a) G.S. 105-187.1 reads as rewritten:

"§ 105-187.1. Definitions.

The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

- (1) Commissioner. – The Commissioner of Motor Vehicles.
- (2) Division. – The Division of Motor Vehicles, Department of Transportation.
- (3) Long-term lease or rental. – A lease or rental made under a written agreement to lease or rent property to the same person for a period of at least 365 continuous days.
- (4) Park model RV. – A vehicle that meets all of the following conditions:
 - a. Is designed and marketed as temporary living quarters for recreational, camping, travel, or seasonal use.
 - b. Is certified by the manufacturer as complying with ANSI A119.5.
 - c. Is built on a single chassis mounted on wheels with a gross trailer area not exceeding 400 square feet in the setup mode.
- ~~(4)~~(5) Recreational vehicle. – Defined in G.S. 20-4.01. The term also includes a park model RV. The term does not include a manufactured home as defined in G.S. 143-143.9.
- ~~(5)~~(6) Rescue squad. – An organization that provides rescue services, emergency medical services, or both.
- ~~(6)~~(7) Retailer. – A retailer as defined in G.S. 105-164.3 who is engaged in the business of selling, leasing, or renting motor vehicles.
- ~~(7)~~(8) Short-term lease or rental. – A lease or rental that is not a long-term lease or rental."

SECTION 3.19.(b) G.S. 105-164.13(32) reads as rewritten:

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

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

- ...
- (32) Sales of motor vehicles, the sale of a motor vehicle body to be mounted on a motor vehicle chassis when a certificate of title has not been issued for the chassis, and the sale of a motor vehicle body mounted on a motor vehicle chassis that temporarily enters the State so the manufacturer of the body can mount the body on the chassis. For purposes of this subdivision, a park model RV, as defined in G.S. 105-187.1, is a motor vehicle."

SECTION 3.19.(c) A retailer is not liable for an over-collection or under-collection of sales tax or highway use tax on a park model RV if the retailer made a good-faith effort to comply with the law. If a retailer collects and remits tax on a park model RV, either sales tax or highway use tax, then the tax is considered properly due and payable and not subject to a refund due to the clarification under this section. This subsection applies to sales of park model RVs made before January 1, 2016.

SECTION 3.20. G.S. 105-187.21 reads as rewritten:

1 **"§ 105-187.21. Tax imposed.**

2 A privilege tax is imposed on a white goods retailer at a flat rate for each new white good
3 that is sold by the retailer. An excise tax is imposed on a new white good purchased ~~outside the~~
4 ~~State~~ for storage, use, or consumption in this State. The rate of the privilege tax and the excise
5 tax is three dollars (\$3.00). These taxes are in addition to all other taxes."

6 **SECTION 3.21.** G.S. 105-538 reads as rewritten:

7 **"§ 105-538. Administration of taxes.**

8 The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of
9 the tax levied under this Article. If the Secretary collects taxes under this Article in a month and
10 the taxes cannot be identified as being attributable to a particular taxing county, the Secretary
11 must allocate the net proceeds of these taxes among the taxing counties in proportion to the
12 amount of taxes collected in each county under this Article in that month. For purposes of this
13 Article, the term "net proceeds" has the same meaning as defined in G.S. 105-472.

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

21 **SECTION 3.22.(a)** G.S. 105-164.29A(a) reads as rewritten:

22 "(a) Application. – To be eligible for the exemption provided in G.S. 105-164.13(52), a
23 State agency must obtain from the Department a sales tax exemption number. The application
24 for exemption must be in the form required by the Secretary, be signed by the State agency's
25 head, and contain any information required by the Secretary. The Secretary must assign a sales
26 tax exemption number to a State agency that submits a proper application. This section does not
27 apply to any of the following State agencies:

28 (1) An occupational licensing board, as defined in G.S. 93B-1.

29 (2) An entity listed in G.S. 105-164.14(c)."

30 **SECTION 3.22.(b)** G.S. 105-164.14(e) reads as rewritten:

31 "(e) State Agencies. – The State is allowed quarterly refunds of local sales and use taxes
32 paid indirectly by the State agency on building materials, supplies, fixtures, and equipment that
33 become a part of or annexed to a building or structure that is owned or leased by the State
34 agency and is being erected, altered, or repaired for use by the State agency. This subsection
35 does not apply to a State agency that is ineligible for a sales and use tax exemption number
36 under G.S. 105-164.29A(a).

37 A person who pays local sales and use taxes on building materials or other tangible
38 personal property for a State building project shall give the State agency for whose project the
39 property was purchased a signed statement containing all of the following information:

40 (1) The date the property was purchased.

41 (2) The type of property purchased.

42 (3) The project for which the property was used.

43 (4) If the property was purchased in this State, the county in which it was
44 purchased.

45 (5) If the property was not purchased in this State, the county in which the
46 property was used.

47 (6) The amount of sales and use taxes paid.

48 If the property was purchased in this State, the person shall attach a copy of the sales receipt
49 to the statement. A State agency to whom a statement is submitted shall verify the accuracy of
50 the statement.

1 Within 15 days after the end of each calendar quarter, every State agency shall file with the
2 Secretary a written application for a refund of taxes to which this subsection applies paid by the
3 agency during the quarter. The application shall contain all information required by the
4 Secretary. The Secretary shall credit the local sales and use tax refunds directly to the General
5 Fund."

6 **SECTION 3.22.(c)** This section becomes effective July 1, 2016.

7 **SECTION 3.23.(a)** G.S. 105-164.4G(b) reads as rewritten:

8 "(b) Tax. – The gross receipts derived from an admission charge to an entertainment
9 activity are taxed at the general rate set in ~~G.S. 105-164.4.~~ G.S. 105-164.4 and the tax is
10 reported pursuant to G.S. 105-164.20, except that tax on gross receipts from an admission
11 charge to an entertainment activity are not required to be reported in a reporting period earlier
12 than the period in which the entertainment activity occurs. The tax is due and payable by the
13 retailer in accordance with G.S. 105-164.16. For purposes of the tax imposed by this section,
14 the retailer is the applicable person listed below:

15 (1) The operator of the venue where the entertainment activity occurs, unless the
16 retailer and the facilitator have a contract between them allowing for dual
17 remittance, as provided in subsection (d) of this section.

18 (2) The person that provides the entertainment and that receives admission
19 charges directly from a purchaser."

20 **SECTION 3.23.(b)** This section becomes effective January 1, 2016, and applies to
21 gross receipts derived from an admission charge sold at retail on or after that date.

22 **SECTION 3.24.(a)** G.S. 105-187.51B reads as rewritten:

23 **"§ 105-187.51B. Tax imposed on certain recyclers, research and development companies,**
24 **industrial machinery refurbishing companies, and companies located at ports**
25 **facilities, facilities, and ready-mix concrete mills.**

26 (a) Tax. – A privilege tax is imposed on the following:

27 ...

28 (7) Repair or replacement parts for a ready-mix concrete mill, regardless of
29 whether the equipment is freestanding or affixed to a motor vehicle.

30"

31 **SECTION 3.24.(b)** This section becomes effective January 1, 2016, and applies to
32 sales occurring on or after that date.

33 **SECTION 3.25.** G.S. 105-465 reads as rewritten:

34 **"§ 105-465. County election as to adoption of local sales and use tax.**

35 The board of elections of any county, upon the written request of the board of county
36 commissioners, or upon receipt of a petition signed by qualified voters of the county equal in
37 number to at least fifteen percent (15%) of the total number of votes cast in the county, at the
38 last preceding election for the office of Governor, shall call a special election for the purpose of
39 submitting to the voters of the county the question of whether a one percent (1%) sales and use
40 tax will be levied.

41 ~~The special election shall be held under the same rules applicable to the election of~~
42 ~~members of the General Assembly.~~

43 The county board of elections shall prepare ballots for the special election. The question
44 presented on the ballot shall be "FOR one percent (1%) local sales and use tax on items subject
45 to State sales and use tax at the general State rate and on food" or "AGAINST one percent (1%)
46 local sales and use tax on items subject to State sales and use tax at the general State rate and
47 on food".

48 The county board of elections shall fix the date of the special election on a date permitted
49 by G.S. 163-287, except that the special election shall not be held within one year from the date
50 of the last preceding special election under this section."

51 **SECTION 3.26.(a)** G.S. 105-187.51B reads as rewritten:

"§ 105-187.51B. Tax imposed on machinery, equipment, and other tangible personal property used by certain ~~recyclers, research and development companies, industrial machinery refurbishing companies, and companies located at ports facilities.~~companies.

(a) Tax. – A privilege tax is imposed on the following:

(6) A company primarily engaged at the facility in recycling and that is a secondary metals recycler as defined in G.S. 66-420 that purchases equipment or an attachment or repair part for equipment that meets all of the requirements listed in this subdivision. This subdivision does not apply to equipment, including a motor vehicle, or an attachment or repair part, used to transport converted products from the recycler's facility. The requirements are as follows:

a. The equipment is capitalized by the company for tax purposes under the Code.

b. The equipment is primarily for use in a process by which ferrous metals or nonferrous metals are gathered or obtained and converted into products consisting of prepared grades and that have an existing or potential economic value by methods including the processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content of the metals, but not including the exclusive use of hand tools.

(b) Rate. – The tax is one percent (1%) of the sales price of the equipment or other tangible personal property. The maximum tax is eighty dollars (\$80.00) per article."

SECTION 3.26.(b) G.S. 105-164.13 is amended by adding the following new subdivision to read:

"(57a) Fuel, piped natural gas, and electricity sold to a secondary metals recycler for use in recycling at its facility at which the primary activity is recycling."

SECTION 3.26.(c) A taxpayer that paid sales and use tax on items that are taxable under G.S. 105-187.51B, as amended by this section, may apply to the Department of Revenue for a refund of the excess tax paid to the extent the refund is the result of the change in the law enacted by this section. A taxpayer that paid sales and use tax on items exempt from tax under G.S. 105-164.13(57a), as enacted by this section, may apply to the Department of Revenue for a refund of the excess tax paid to the extent the refund is the result of the change in the law enacted by this section. A request for a refund must be made on or before January 1, 2016. A request for refund received after that date is barred.

SECTION 3.26.(d) This section is effective retroactively to July 1, 2010, and applies to purchases made on or after that date.

SECTION 3.27. The Revenue Laws Study Committee is directed to study the application of or exemption from sales tax on admission charges for the following entertainment activities and to report its findings, together with any recommended legislation, to the 2016 Regular Session of the 2015 General Assembly:

(1) Corn mazes.

(2) Visits to farms where a tour or hay ride and an explanation of the farming activities are provided to students or others.

(3) Ride tickets for amusement rides that are sold in addition to an admission fee.

(4) Haunted houses.

(5) Kid zones.

(6) Jump time on a trampoline.

- 1 (7) Special programs offered by museums that include instruction or
2 participation by attendees.
3 (8) Trolley rides that include a tour guide.
4 (9) Any other similar entertainment activities.

5 **SECTION 3.28.** G.S. 105-187.51B(a)(5) reads as rewritten:

6 "(a) Tax. – A privilege tax is imposed on the following:

- 7 ...
8 (5) A company located at a ports facility for waterborne commerce that
9 purchases ~~specialized~~ qualified equipment to be used at the facility to unload
10 or process bulk cargo to make it suitable for delivery to and use by
11 manufacturing facilities. For purposes of this subdivision, qualified
12 equipment includes both of the following:

- 13 a. Machinery and equipment used at the facility to unload or process
14 bulk cargo and make it suitable for delivery to and use by
15 manufacturing facilities.
16 b. Parts, accessories, or attachments used to maintain, repair, replace,
17 upgrade, improve, or otherwise modify such machinery and
18 equipment."

19 **SECTION 3.29.(a)** G.S. 105-164.4(c) reads as rewritten:

20 "(c) Certificate of Registration. – Before a person may engage in business as
21 a retailer or a wholesale merchant in this State, the person must obtain a certificate of
22 registration from the Department in accordance with G.S. 105-164.29. A facilitator that is liable
23 for tax under ~~G.S. 105-164.4F~~ this Article must obtain a certificate of registration from the
24 Department in accordance with G.S. 105-164.29."

25 **SECTION 3.29.(b)** G.S. 105-164.6(f) reads as rewritten:

26 "(f) Registration. – A person must obtain a certificate of registration in accordance with
27 G.S. 105-164.29 under any of the following circumstances:

- 28 (1) Before the person engages in business in this State selling or delivering
29 tangible personal property, digital property, or a service for storage, use, or
30 consumption in this State.
31 (2) If the person is a facilitator that is liable for tax ~~pursuant to~~
32 ~~G.S. 105-164.4F~~ under this Article."

33 **SECTION 3.29.(c)** G.S. 105-164.29 reads as rewritten:

34 "(a) Requirement and Application. – Before a person may engage in business as a
35 retailer or a wholesale merchant or when a facilitator is liable for tax under ~~G.S. 105-164.4F~~,
36 this Article, the person must obtain a certificate of registration. To obtain a certificate of
37 registration, a person must register with the Department. A person who has more than one
38 business is required to obtain only one certificate of registration for each legal entity to cover
39 all operations of each business throughout the State. An application for registration must be
40 signed as follows:

- 41 (1) By the owner, if the owner is an individual.
42 (2) By a manager, member, or partner, if the owner is an association, a
43 partnership, or a limited liability company.
44 (3) By an executive officer or some other person specifically authorized by the
45 corporation to sign the application, if the owner is a corporation. If the
46 application is signed by a person authorized to do so by the corporation,
47 written evidence of the person's authority must be attached to the
48 application.

49 ...

50 (c) Term. – A certificate of registration is valid unless it is revoked for failure to
51 comply with the provisions of this Article or becomes void. A certificate issued to a retailer

who makes taxable sales or a facilitator liable for tax under ~~G.S. 105-164.4F~~ this Article becomes void if, for a period of 18 months, the retailer or facilitator files no returns or files returns showing no sales.

..."

PART IV. EXCISE TAX CHANGES

SECTION 4.1.(a) G.S. 105-113.13 reads as rewritten:

"§ 105-113.13. Secretary may require a bond or irrevocable letter of credit.

(a) Repealed by Session Laws 2013-414, s. 22(c), effective September 1, 2013.

(b) The Secretary may require a distributor to furnish a bond in an amount that adequately protects the State from loss if the distributor fails to pay taxes due under this Part. A bond must be conditioned on compliance with this Part, payable to the State, and in the form required by the Secretary. ~~The Secretary must set the bond amount based on the anticipated tax liability of the distributor.~~ The amount of the bond is two times the distributor's average expected monthly tax liability under this Article, as determined by the Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The Secretary should periodically review the sufficiency of bonds required of the distributor and increase the required bond amount if the amount no longer covers the anticipated tax liability of the distributor and decrease the amount if the Secretary finds that a lower bond amount will protect the State adequately from loss.

For purposes of this section, a distributor may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section."

SECTION 4.1.(b) G.S. 105-113.38 reads as rewritten:

"§ 105-113.38. Bond or irrevocable letter of credit.

The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from loss if the dealer fails to pay taxes due under this Part. A bond must be conditioned on compliance with this Part, payable to the State, and in the form required by the Secretary. ~~The bond amount must be proportionate to the anticipated tax liability of the wholesale dealer or retail dealer.~~ The amount of the bond is two times the wholesale or retail dealer's average expected monthly tax liability under this Article, as determined by the Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The Secretary should periodically review the sufficiency of bonds required of dealers, and increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the wholesale dealer or retail dealer and decrease the amount when the Secretary determines that a smaller bond amount will adequately protect the State from loss.

For purposes of this section, a wholesale dealer or a retail dealer may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section."

SECTION 4.2. G.S. 105-113.35(a) reads as rewritten:

"(a) Tax on Tobacco Products. – An excise tax is levied on tobacco products ~~other than cigarettes and vapor products~~ at the rate of twelve and eight-tenths percent (12.8%) of the cost price of the products. The tax rate does not apply to the following:

(1) Cigarettes subject to the tax in G.S. 105-113.5.

(2) Vapor products subject to the tax in subsection (a1) of this section."

1 **SECTION 4.3.(a)** G.S. 105-113.83(b) reads as rewritten:

2 "(b) Beer and Wine. – The excise taxes on malt beverages and wine levied under
3 G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident
4 wholesaler or importer who first handles the beverages in this State. The excise taxes levied
5 under G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to
6 G.S. 18B-1001.1 must be paid by the wine shipper permittee. The taxes on malt beverages and
7 wine are payable only once on the same beverages. ~~The~~ Unless otherwise provided, the tax is
8 due on or before the 15th day of the month following the month in which the beverage is first
9 sold or otherwise disposed of in this State by the wholesaler, importer, or wine shipper
10 permittee. When excise taxes are paid on wine or malt beverages, the ~~wholesaler, importer, or~~
11 ~~wine shipper permittee~~ wholesaler or importer must submit to the Secretary verified reports on
12 forms provided by the Secretary detailing sales records for the month for which the taxes are
13 paid. The report must indicate the amount of excise tax due, contain the information required
14 by the Secretary, and indicate separately any transactions to which the excise tax does not
15 apply. A wine shipper permittee shall pay the tax and submit verified reports once a year on
16 forms provided by the Secretary detailing sales records for the year the taxes are paid. The
17 verified report is due on or before the fifteenth day of the first month of the following calendar
18 year."

19 **SECTION 4.3.(b)** G.S. 105-113.84 reads as rewritten:

20 "**§ 105-113.84. Report of resident brewery, resident winery, nonresident vendor, or wine**
21 **shipper permittee.**

22 A resident brewery, resident winery, ~~nonresident vendor, and wine shipper permittee~~ and
23 nonresident vendor must file a monthly report with the Secretary. A wine shipper permittee
24 must file a yearly report with the Secretary. The report must list the amount of beverages
25 delivered to North Carolina wholesalers, importers, and purchasers under G.S. 18B-1001.1
26 during the month. The monthly report filed by a resident brewery, resident winery, or
27 nonresident vendor is due by the 15th day of the month following the month covered by the
28 report. The yearly report filed by a wine shipper permittee is due on or before the 15th day of
29 the first month of the following calendar year. The report must be filed on a form approved by
30 the Secretary and must contain the information required by the Secretary."

31 **SECTION 4.4.(a)** G.S. 105-187.82 is repealed.

32 **SECTION 4.4.(b)** G.S. 105-187.77(a) reads as rewritten:

33 "(a) Purpose. – An excise tax is levied on the privilege of engaging in the severance of
34 energy minerals from the soil or water of this State. The tax is imposed on the producer of the
35 energy mineral. The purpose of the tax is to provide revenue to administer and enforce the
36 provisions of this Article, to administer the State's natural gas and oil reclamation regulatory
37 program, to meet the environmental and resource management needs of this State, and to
38 reclaim land affected by exploration for, drilling for, and production of natural gas and oil. The
39 severance tax is imposed upon all energy minerals severed when sold."

40 **SECTION 4.4.(c)** G.S. 105-187.81 reads as rewritten:

41 "**§ 105-187.81. Bond or letter of credit required.**

42 A producer must file with the Secretary a bond or an irrevocable letter of credit ~~if the~~
43 ~~producer fails to file a return required under this Article prior to obtaining a permit under~~
44 G.S. 113-395. A bond or an irrevocable letter of credit must be conditioned upon compliance
45 with the requirements of this Article, be payable to the State, and be in the form required by the
46 Secretary. The amount of the bond or irrevocable letter of credit is two times the applicant's
47 average expected monthly tax liability under this Article, as determined by the ~~Secretary.~~
48 Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000)
49 and may not be more than two million dollars (\$2,000,000). The Secretary should periodically
50 review the sufficiency of bonds required of producers and increase the amount of a required
51 bond when the amount of the bond furnished no longer covers the anticipated tax liability of the

1 producer and decrease the amount when the Secretary determines that a smaller bond amount
2 will adequately protect the State from loss. When notified to do so by the Secretary, a person
3 who is required to file a bond or an irrevocable letter of credit must file the bond or irrevocable
4 letter of credit in the amount required by the Secretary within 30 days after receiving the notice
5 from the Secretary."

6 **SECTION 4.5.(a)** G.S. 105-259(b) reads as rewritten:

7 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has
8 access to tax information in the course of service to or employment by the State may not
9 disclose the information to any other person except as provided in this subsection. Standards
10 used or to be used for the selection of returns for examination and data used or to be used for
11 determining the standards may not be disclosed for any purpose. All other tax information may
12 be disclosed only if the disclosure is made for one of the following purposes:

13 ...

14 (40) To furnish a nonparticipating manufacturer, as defined in G.S. 66-292, the
15 amount of the manufacturer's tobacco products that a taxpayer ~~sells~~ sold in
16 this State by distributor and that the Secretary reports to the Attorney
17 General under G.S. 105-113.4C.

18 ...

19 (49) To provide public access to a list containing the name and account number
20 of entities licensed under Article 2A of this Chapter to aid in the
21 administration of the tobacco products tax.

22 (50) To exchange information regarding the tax imposed on motor carriers under
23 Article 36B of this Chapter with other jurisdictions that administer the
24 International Fuel Tax Agreement to aid in the administration of the
25 Agreement."

26 **SECTION 4.5.(b)** G.S. 105-449.57(c) reads as rewritten:

27 "(c) Disclosure. – In accordance with G.S. 105-259, the Secretary may, as required by
28 the terms of an agreement, forward to officials of another jurisdiction any information in the
29 Department's possession relative to the administration and collection of a tax imposed on the
30 use of motor fuel or alternative fuel by any motor carrier. The Secretary may disclose to
31 officials of another jurisdiction the location of offices, motor vehicles, and other real and
32 personal property of motor carriers."

33 **SECTION 4.6.** G.S. 105-449.49 reads as rewritten:

34 **"§ 105-449.49. Temporary permits.**

35 (a) Issuance. – Upon application to the Secretary and payment of a fee of fifty dollars
36 (\$50.00), a ~~motor carrier~~ permitting service may obtain a temporary permit authorizing ~~the a~~
37 motor carrier to operate a vehicle in the State for three days without registering the vehicle in
38 accordance with G.S. 105-449.47. The permitting service may sell the temporary permit to a
39 motor carrier. A motor carrier to whom a temporary permit has been issued may elect not to
40 report its operation of the vehicle during the three-day period. Fees collected under this
41 subsection are credited to the Highway Fund.

42 (b) ~~Refusal. – The Secretary may refuse to issue a temporary permit to any of the~~
43 ~~following:~~

44 (1) ~~A motor carrier whose registration has been withheld or revoked.~~

45 (2) ~~A motor carrier who the Secretary determines is evading payment of tax~~
46 ~~through the successive purchase of temporary permits."~~

47 **SECTION 4.7.(a)** G.S. 105-449.57(a) reads as rewritten:

48 "(a) Authority. – The Secretary may enter into cooperative agreements with other
49 jurisdictions for exchange of information in administering the tax imposed by this Article. No
50 agreement, arrangement, declaration, or amendment to an agreement is effective until stated in
51 writing and approved by the ~~Secretary.~~ Secretary or the Secretary's designee."

1 **SECTION 4.7.(b)** G.S. 150-449.57(e) reads as rewritten:

2 "(e) Restriction. – The Secretary or the Secretary's designee may not enter into any
3 agreement that would increase or decrease taxes and fees imposed under Subchapter V of
4 Chapter 105 of the General Statutes. Any provision to the contrary is void."

5 **SECTION 4.8.** G.S. 105-449.45 is amended by adding a new subsection to read:

6 "(e) Interest. – Interest on overpayments and underpayments of tax imposed on motor
7 carriers under this Article is subject to the interest rate adopted in the International Fuel Tax
8 Agreement."

9 **SECTION 4.9.(a)** Section 2.2(b) of S.L. 2015-2 is repealed.

10 **SECTION 4.9.(b)** G.S. 105-449.39 reads as rewritten:

11 **"§ 105-449.39. Credit for payment of motor fuel tax.**

12 Every motor carrier subject to the tax levied by this Article is entitled to a credit on its
13 quarterly return for tax paid by the carrier on fuel purchased in the State. The amount of the
14 credit is determined using the ~~flat cents per gallon rate plus the variable cents per gallon rate of~~
15 ~~tax in effect during the quarter~~ tax rate in effect under G.S. 105-449.80 for the time period
16 covered by the return. To obtain a credit, the motor carrier must furnish evidence satisfactory to
17 the Secretary that the tax for which the credit is claimed has been paid.

18 If the amount of a credit to which a motor carrier is entitled for a quarter exceeds the motor
19 carrier's liability for that quarter, the excess is refundable in accordance with G.S. 105-241.7."

20 **SECTION 4.9.(c)** G.S. 105-449.106 reads as rewritten:

21 **"§ 105-449.106. Quarterly refunds for nonprofit organizations, taxicabs, and special**
22 **mobile equipment.**

23 (a) Nonprofits. – A nonprofit organization listed below that purchases and uses motor
24 fuel may receive a quarterly refund, for the excise tax paid during the preceding quarter, at a
25 rate equal to the ~~amount of the flat cents per gallon rate plus the variable cents per gallon rate~~
26 ~~in effect during the quarter~~ tax rate in effect under G.S. 105-449.80 for the time period for
27 which the refund is claimed, less one cent (1¢) per gallon.

28 An application for a refund allowed under this subsection must be made in accordance with
29 this Part and must be signed by the chief executive officer of the organization. The chief
30 executive officer of a nonprofit organization is the president of the organization or another
31 officer of the organization designated in the charter or bylaws of the organization.

32 Any of the following entities may receive a refund under this subsection:

- 33 (1) Repealed by Session Laws 2002-108, s. 13, effective January 1, 2003.
34 (2) A private, nonprofit organization that transports passengers under contract
35 with or at the express designation of a unit of local government.
36 (3) A volunteer fire department.
37 (4) A volunteer rescue squad.
38 (5) A sheltered workshop recognized by the Department of Health and Human
39 Services.

40 ...

41 (c) Special Mobile Equipment. – A person who purchases and uses motor fuel for the
42 off-highway operation of special mobile equipment registered under Chapter 20 of the General
43 Statutes may receive a quarterly refund, for the excise tax paid during the preceding quarter, at
44 a rate equal to the ~~flat cents per gallon rate plus the variable cents per gallon rate in effect~~
45 ~~during the quarter~~ tax rate in effect under G.S. 105-449.80 for the time period for which the
46 refund is claimed, less the amount of sales and use tax due on the fuel under this Chapter, as
47 determined in accordance with G.S. 105-449.107(c). An application for a refund must be made
48 in accordance with this Part."

49 **SECTION 4.9.(d)** G.S. 105-449.107 reads as rewritten:

50 **"§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles with**
51 **power attachments.**

(a) Off-Highway. – A person who purchases and uses motor fuel for a purpose other than to operate a licensed highway vehicle may receive an annual refund for the excise tax the person paid on fuel used during the preceding calendar year. The amount of refund allowed is ~~the amount of the flat cents per gallon rate in effect during the year for which the refund is claimed plus the average of the two variable cents per gallon rates in effect during that year,~~ equal to the tax rate in effect under G.S. 105-449.80 for the time period less the amount of sales and use tax due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part.

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

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

The amount of refund allowed is thirty-three and one-third percent (33 1/3%) of the following: the sum of ~~the flat cents per gallon rate in effect during the year for which the refund is claimed and the average of the two variable cents per gallon rates in effect during that year,~~ the amount equal to the tax rate in effect under G.S. 105-449.80 for the time period less the amount of sales and use tax due on the fuel under this Chapter. An application for a refund allowed under this section must be made in accordance with this Part. This refund is allowed for the amount of fuel consumed by the vehicle in its mixing, compacting, or unloading operations, as distinguished from propelling the vehicle, which amount is considered to be one-third of the amount of fuel consumed by the vehicle.

(c) Sales Tax Amount. – Article 5 of Subchapter I of this Chapter determines the amount of State sales and use tax to be deducted under this section from a motor fuel excise tax refund. Articles 39, 40, and 42 of Subchapter VIII of this Chapter and the Mecklenburg First 1% Sales Tax Act determine the amount of local sales and use tax to be deducted under this section from a motor fuel excise tax refund. The sales price and the cost price of motor fuel and alternative fuel to be used in determining the amount to deduct is the average of the wholesale ~~prices used under G.S. 105-449.80 to determine the excise tax rates in effect~~ price for the ~~two six-month periods of the year~~ taxable period for which the refund is claimed.

(d) Wholesale Price. – The Secretary must determine the average wholesale price of motor fuel and alternative fuel for each taxable period. To do this, the Secretary must use information on refiner and gas plant operator sales prices of finished motor gasoline and No. 2 diesel fuel, for resale, published by the United States Department of Energy in the "Monthly Energy Review," or equivalent data.

The Secretary must compute the average sales price of finished motor gasoline and No. 2 diesel fuel for the taxable period and then compute a weighted average of the results of the

computations based on the proportion of tax collected on each under this Article for the taxable period. The Secretary must then convert the weighted average price to a cents-per-gallon rate and round the rate to the nearest one-tenth of a cent (1/10¢). If the converted cents-per-gallon rate is exactly between two-tenths of a cent (2/10¢), the Secretary must round the rate up to the higher of the two."

SECTION 4.9.(e) This section becomes effective January 1, 2016.

PART V. OTHER TAX CHANGES

SECTION 5.1.(a) G.S. 105-242.2(e) reads as rewritten:

"(e) Statute of Limitations. – The period of limitations for assessing a responsible person for unpaid taxes under this section expires the later of (i) one year after the expiration of the period of limitations for assessing the business ~~entity~~ or (ii) one year after a tax becomes collectible from the business entity under G.S. 105-241.22(3), (4), (5), or (6)."

SECTION 5.1.(b) This section is effective when this act becomes law and applies to a tax that becomes collectible from the business entity under G.S. 105-241.22(3), (4), (5), or (6) on or after that date.

SECTION 5.2. G.S. 105-521 is repealed.

SECTION 5.3.(a) G.S. 131E-28 is repealed.

SECTION 5.3.(b) G.S. 105-130.5(b)(1a) reads as rewritten:

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

...

(1a) Interest upon the obligations of any of the following, net of related expenses, to the extent included in federal taxable income:

- a. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.
- b. A nonprofit educational institution organized or chartered under the laws of this State.
- c. A hospital authority created under G.S. 131E-17."

SECTION 5.3.(c) G.S. 105-153.5(b)(1) reads as rewritten:

"(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

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

- a. The United States or its possessions.
- b. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.
- c. A nonprofit educational institution organized or chartered under the laws of this State.
- d. A hospital authority created under G.S. 131E-17."

SECTION 5.3.(d) G.S. 105-449.88 is amended by adding a new subdivision to read:

"§ 105-449.88. Exemptions from the excise tax.

The excise tax on motor fuel does not apply to the following:

...

(10) Motor fuel sold to a hospital authority created under G.S. 131E-17."

SECTION 5.4. G.S. 153A-134(b) is repealed.

SECTION 5.5. G.S. 45-91 reads is amended by adding a new subdivision to read:

"§ 45-91. Assessment of fees; processing of payments; publication of statements.

A servicer must comply as to every home loan, regardless of whether the loan is considered in default or the borrower is in bankruptcy or the borrower has been in bankruptcy, with the following requirements:

...

(5) The obligations of mortgage servicers set forth in G.S. 53-243.11.

(6) The statement mailing requirement and borrower notification requirements of this section are deemed satisfied by compliance with the disclosure requirements contained in Regulation Z, 12 C.F.R. Part 1026.41."

SECTION 5.6.(a) G.S. 18B-900(c) reads as rewritten:

"(c) Who Must Qualify; Exceptions. – For an ABC permit to be issued to and held for a business, each of the following persons associated with that business must qualify under subdivisions (1) through (7) of subsection (a);(a) of this section, unless otherwise provided below:

(1) The owner of a sole ~~proprietorship~~; proprietorship except that the requirement of subdivision (a)(8) of this section also applies to such an owner.

(2) Each member of a firm, association or general ~~partnership~~; partnership.

(2a) Each general partner in a limited ~~partnership~~; partnership.

(2b) Each manager and any member with a twenty-five percent (25%) or greater interest in a limited liability ~~company~~; company.

(3) Each officer, director and owner of twenty-five percent (25%) or more of the stock of a corporation except that the requirement of subdivision (a)(1) does not apply to such an officer, director, or stockholder unless he is a manager or is otherwise responsible for the day-to-day operation of the ~~business~~; business.

(4) The manager of an establishment operated by a corporation other than an establishment with only off-premises malt beverage, off-premises unfortified wine, or off-premises fortified wine ~~permits~~; permits.

(5) Any manager who has been empowered as attorney-in-fact for a nonresident individual or partnership."

SECTION 5.6.(b) This section is effective when this act becomes law and applies retroactively to ABC permits issued or renewed on or after May 1, 2015.

SECTION 5.7.(a) G.S. 147-86.42(8) reads as rewritten:

"§ 147-86.42. Definitions.

As used in this article, the following definitions apply:

...

(8) "Indirect Holdings" in a Company means all securities of that Company held in an account or fund, such as a mutual fund, managed by one or more persons not employed by the Public Fund, in which the Public Fund owns shares or interests together with other investors not subject to the provisions of this ~~article~~. Article and securities held through index funds, commingled funds, limited partnerships, derivative instruments, or any other similar investment instrument."

SECTION 5.7.(b) G.S. 147-86.44(f) reads as rewritten:

"(f) Excluded Securities. – Notwithstanding anything herein to the contrary, subsections (c) and (d) of this section shall not apply to Indirect ~~Holdings in actively managed investment funds~~. Holdings. The Public Fund shall, however, submit letters to the managers of such investment funds containing Companies with Scrutinized Active Business Operations requesting that they consider removing such Companies from the fund or create a similar actively managed fund with Indirect Holdings devoid of such Companies. If the manager creates a similar fund, the Public Fund shall replace all applicable investments with investments

in the similar fund in an expedited time frame consistent with prudent investing standards. For the purposes of this section, "private equity" funds shall be deemed to be actively managed investment funds."

SECTION 5.8. Section 4 of S.L. 2011-373 reads as rewritten:

"**SECTION 4.** Sections 1 and 2 of this act become effective July 1, 2011, and expire January 1, 2016. The remainder of this act is effective when it becomes law."

SECTION 5.9. G.S. 147-69.1(c)(3) reads as rewritten:

"(c) It shall be the duty of the State Treasurer to invest the cash of the funds enumerated in subsection (b) of this section in excess of the amount required to meet the current needs and demands on such funds, selecting from among the following:

...

(3) Repurchase Agreements with respect to one or more of the following:

- a. ~~securities~~ Securities issued or guaranteed by the United States government or its ~~agencies or other securities agencies~~.
- b. Securities eligible for investment by this section executed by a bank or trust company or by primary or other reporting dealers to the Federal Reserve Bank of New ~~York, York~~.
- c. Securities eligible for investment by this section executed by a registered broker-dealer that is subject to the rules and regulations of the U.S. Securities and Exchange Commission and is a member in good standing of the Financial Industry Regulatory Authority."

SECTION 5.10. G.S. 143B-437.01(a) reads as rewritten:

"(a) Creation and Purpose of Fund. – There is created in the Department of Commerce a special account to be known as the Industrial Development Fund Utility Account ("Utility Account") to provide funds to assist the local government units of the most economically distressed counties in the State in retaining or creating jobs, jobs, including expanding the existing job base. The Department of Commerce shall adopt rules providing for the administration of the program. Those rules shall include the following provisions, which shall apply to each grant from the account:

(1) The funds shall be used for construction of or improvements to new or existing water, sewer, gas, telecommunications, high-speed broadband, electrical utility distribution lines or equipment, or transportation infrastructure for existing or new or proposed buildings. To be eligible for funding, the water, gas, telecommunications, high-speed broadband, electrical utility lines or facilities, or transportation infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the job creation activity. To be eligible for funding, the sewer infrastructure shall be located on the site of the building or, if not located on the site, shall be directly related to the operation of the job creation activity, even if the sewer infrastructure is located in a county other than the county in which the building is located.

...

(2) The funds shall be used by the city and county governments for projects that are reasonably anticipated to result in the creation of new ~~jobs, jobs,~~ including expanding the existing job base, or retention of existing jobs. There shall be no maximum funding amount per new job to be created or per project.

...."

SECTION 5.11.(a) G.S. 105-187.51B reads as rewritten:

"§ 105-187.51B. Tax imposed on machinery, equipment, and other tangible personal property used by certain reeyelers, research and development companies,

~~industrial machinery refurbishing companies, and companies located at ports facilities.companies.~~

(a) Tax. – A privilege tax is imposed on the following:

...

(6) A company (i) that is engaged in the fabrication of metal work, (ii) that has annual gross receipts, including the gross receipts of all related persons as defined in G.S. 105-163.010, from the fabrication of metal work of at least eight million dollars (\$8,000,000), and (iii) that purchases equipment or an attachment or repair part for equipment that meets all of the following requirements:

a. Is capitalized by the company for tax purposes under the Code.

b. Is used by the company at the establishment in the fabrication or manufacture of metal products or used by the company to create equipment for the fabrication or manufacture of metal products.

(b) Rate. – The tax is one percent (1%) of the sales price of the equipment or other tangible personal property. The maximum tax is eighty dollars (\$80.00) per article."

SECTION 5.11.(b) The Revenue Laws Study Committee is directed to study the scope and application of the privilege tax at the rate of one percent (1%) with a cap of eighty dollars (\$80.00) that applies to mill machinery and on other machinery and equipment purchased by certain industries and companies. The study may include an examination of the following:

- (1) The criteria that must be met under current law in order to qualify for the preferential rate of tax and whether that criteria should be modified or otherwise clarified in the statutes.
- (2) The tax treatment in other states of business equipment purchases.
- (3) Economic competitiveness issues surrounding the tax treatment of business equipment purchases.
- (4) A comparison of how North Carolina treats equipment purchases by similarly situated taxpayers.
- (5) Whether there is a simpler, more uniform, and more equitable way to treat business equipment purchases of taxpayers and the fiscal impact of such treatment.
- (6) The extent to which a business's activities must consist of manufacturing items for sale in order for the 1%/\$80 rate to apply.
- (7) Whether the 1%/\$80 rate should apply to equipment used to manufacture items that are not sold at retail but are used in the fulfillment of a performance contract by the manufacturer.
- (8) Whether the rate should be modified or eliminated.

The Committee may report its findings, together with any recommended legislation, to the 2016 Regular Session of the 2015 General Assembly upon its convening.

SECTION 5.11.(c) Section 1 of this act is effective January 1, 2016, and applies to purchases made on or after that date. The remainder of this act is effective when it becomes law.

SECTION 5.12.(a) G.S. 105-129.103(h), as enacted by Section 32.3 of S.L. 2015-241, reads as rewritten:

"(h) Substantiation. – To claim a credit allowed by this Article, the taxpayer must provide any information required by the Secretary of Revenue, including a copy of the certification obtained from the State Historic Preservation Office verifying that the historic structure has been rehabilitated in accordance with the requirements set out in this Article, and a copy of the eligibility certification if the historic structure is located in an eligible targeted investment site and the ~~target-targeted~~ investment bonus is claimed. Every taxpayer claiming a

1 credit under this Article must maintain and make available for inspection by the Secretary of
2 Revenue any records the Secretary considers necessary to determine and verify the amount of
3 the credit to which the taxpayer is entitled. The burden of proving eligibility for the credit and
4 the amount of the credit rests upon the taxpayer, and no credit may be allowed to a taxpayer
5 that fails to maintain adequate records or to make them available for inspection."

6 **SECTION 5.12.(b)** This section becomes effective January 1, 2016.

7 **SECTION 5.13.** Section 32.14(d) of S.L. 2015-241 reads as rewritten:

8 "SECTION 32.14.(d) Effective for taxable years beginning on or after January 1, 2018,
9 G.S. 105-130.4(a)(6), ~~(a)(9), (a)(4), (j), (k), (r), and (s1)~~ are repealed."

10 **SECTION 5.14.** G.S. 58-36-75(a) reads as rewritten:

11 "(a) The subclassification plan promulgated pursuant to G.S. 58-36-65(b) may provide
12 for separate surcharges for major, intermediate, and minor accidents. A "major accident" is an
13 at-fault accident that results in either (i) bodily injury or death or (ii) only property damage of
14 ~~three thousand dollars (\$3,000)~~ three thousand eighty-five dollars (\$3,085) or more. An
15 "intermediate accident" is an at-fault accident that results in only property damage of more than
16 ~~one thousand eight hundred dollars (\$1,800)~~ one thousand eight hundred and fifty dollars
17 (\$1,850) but less than ~~three thousand dollars (\$3,000)~~ three thousand eighty-five dollars
18 (\$3,085). A "minor accident" is an at-fault accident that results in only property damage of ~~one~~
19 ~~thousand eight hundred dollars (\$1,800)~~ one thousand eight hundred and fifty dollars (\$1,850)
20 or less. The subclassification plan may also exempt certain minor accidents from the Facility
21 recoupment surcharge. The Bureau shall assign varying Safe Driver Incentive Plan point values
22 and surcharges for bodily injury in at-fault accidents that are commensurate with the severity of
23 the injury, provided that the point value and surcharge assigned for the most severe bodily
24 injury shall not exceed the point value and surcharge assigned to a major accident involving
25 only property damage."

26 **SECTION 5.15.(a)** Section 29.34A.(c) of S.L. 2015-241 reads as rewritten:

27 "SECTION 29.34A.(c) This section becomes effective January 1, 2016, and applies to
28 sales made a certificate of title issued on or after that date-date, or for purposes of
29 G.S. 105-187.5, a lease or rental agreement entered into on or after that date."

30 **SECTION 5.15.(b)** This section is effective when it becomes law.

31 **SECTION 5.16.(a)** G.S. 105-164.3(38b), as amended by S.L. 2015-241, reads as
32 rewritten:

33 "(38b) Service contract. – A contract where the obligor under the contract agrees to
34 maintain or repair tangible personal property, regardless of whether the
35 property ~~is~~ becomes a part of or affixed to real property, or a motor vehicle.
36 Examples of a service contract include a warranty agreement other than a
37 manufacturer's warranty or dealer's warranty provided at no charge to the
38 purchaser, an extended warranty agreement, a maintenance agreement, a
39 repair contract, or a similar agreement or contract."

40 **SECTION 5.16.(b)** This section becomes effective March 1, 2016.

41 **SECTION 5.17.(a)** G.S. 105-524, as enacted by Section 32.19(b) of S.L.
42 2015-241, reads as rewritten:

43 "§ 105-524. **Distribution of additional sales tax revenue for economic development, public**
44 **education, and community colleges.**

45 ...

46 (b) Distribution Amount. – The Secretary must calculate a distribution amount in
47 conformity with this section. The Secretary must deduct this ~~amount proportionately, amount,~~
48 in equal installments, proportionately from the collections to be allocated each month for
49 distribution under ~~G.S. 105-466, 105-483, and 105-498. Articles 39, 40, and 42 of this Chapter,~~
50 excluding the revenue allocated under G.S. 105-469. The deduction made under this section

from Articles 39, 40, and 42 of this Chapter shall not be included in the calculations made under G.S. 105-469, 105-522, and 105-523. For

For the fiscal year beginning July 1, 2016, the distribution amount is eighty-four million eight hundred thousand dollars (\$84,800,000). For fiscal years beginning on or after July 1, 2017, the distribution amount is the amount for the preceding year, adjusted by the same percentage of this amount as the percentage change of the total collection of local sales and use taxes levied under Articles 39, 40, and 42 of this Chapter for the preceding fiscal year.

(c) County Allocation. – The Secretary must, on a monthly basis, allocate to each taxing county an amount equal to one-twelfth of the distribution amount calculated under subsection (b) of this section multiplied by ~~the following~~ appropriate allocation ~~percentage~~ percentage. If, after applying the allocation percentages in this section, 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. The allocation percentages are as follows:

..."

SECTION 5.17.(b) G.S. 105-469(a) reads as rewritten:

"(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The references in this section to Articles 39, 40, and 42 do not include the adjustments contained in G.S. 105-524. The Secretary must, on a monthly basis, distribute local taxes levied on food to the taxing counties as follows:

..."

SECTION 5.17.(c) G.S. 105-522(a)(2) reads as rewritten:

"(2) Hold harmless amount. – The sum of the following amounts allocated for distribution to a municipality for a ~~month~~ month. The references in this subdivision to Articles 39, 40, and 42 of this Chapter do not include the distribution adjustment deducted in G.S. 105-524. The amounts are as follows:

..."

SECTION 5.17.(d) G.S. 105-523(b)(3) reads as rewritten:

"(3) Repealed sales tax amount. – The sum of the following amounts allocated for distribution to a county for a ~~month~~ month. The references in this subdivision to Articles 39, 40, and 42 of this Chapter do not include the distribution adjustment deducted in G.S. 105-524. The amounts are as follows:

..."

SECTION 5.17.(e) This section becomes effective July 1, 2016, and applies to local option sales taxes collection on or after that date and distributed to counties and cities on or after September 1, 2016.

PART VI. LOCAL OPTION SALES TAX FOR COUNTIES

SECTION 6.1.(a) 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 must be in an increment of one-quarter percent (1/4%).
 - (2) The tax is approved by the majority of those voting in a referendum held pursuant to this Article.
 - (3) 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.
 - (4) 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 up to one-half percent (1/2%). 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
- Local sales and use tax at [the applicable rate stated in both words and as a percentage] in addition to the current local sales and use taxes, to be used only for public education."
- (e) One-Half Cent (1/2%) Transit-Authorized Counties. – Notwithstanding subsection (a) of this section, the local sales and use tax rate of a county may exceed two and one-half percent (2 ½%) if the county is authorized to levy a tax at the rate of one-half cent (1/2%) under Article 43 of this Chapter. In no event may the local sales and use tax rate in a county exceed two and three-quarters percent (2 ¾%).
- "§ 105-513.3. Administration.**
- Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean Article 43A of Chapter 105 of the General Statutes. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary shall not divide the amount allocated to a county between the county and the municipalities within the county.
- "§ 105-513.4. Use.**
- A county may use the proceeds of a tax levied under this Article only for the following purposes:
- (1) Public school capital outlay purposes, as defined in G.S. 115C-426(f), or to retire any indebtedness incurred by the county for these purposes.
 - (2) Salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction, and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom.

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

SECTION 6.1.(b) G.S. 115C-429(b) reads as rewritten:

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

SECTION 6.1.(c) G.S. 115C-433(b) reads as rewritten:

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

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

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

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

SECTION 6.1.(d) G.S. 115D-55(a) reads as rewritten:

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

The local tax-levying authority shall have full authority to call for all books, records, audit reports, and other information bearing on the financial operation of the institution except

records dealing with specific persons for which the persons' rights of privacy are protected by either federal or State law.

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

SECTION 6.1.(e) G.S. 115D-58(b) reads as rewritten:

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

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

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

SECTION 6.2. Part 6 of Article 43 of Chapter 105 of the General Statutes reads as rewritten:

"Part 6. Other Counties.

"§ 105-511. Applicability.

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

"§ 105-511.1. ~~Limitations.~~ 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 43A 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%).

(4) ~~A county may not levy a tax under this Part unless the~~ The county or at least one unit of local government in the county operates a public transportation system. As used in this Part, operation of a public transportation system includes a contract or interlocal agreement for operation of the public transportation system by another county or municipality, or by a transportation authority created under (i) a municipal charter; or (ii) Article 25, 26, or 27 of Chapter 160A of the General Statutes. As used in this Part, operation of a public transportation system also includes a contract with a private entity for operation of the public transportation system.

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

(a) ~~Resolution.~~ Referendum. — The board of commissioners of a county may direct the county board of elections to conduct an advisory referendum within the county on the question of whether a local sales and use tax at the rate of one-quarter percent (1/4%) may be levied in accordance with this ~~Part.~~ Part subject to the conditions in G.S. 105-511.1. The election shall be held on a date jointly agreed upon by the boards and shall be held on a date

permitted by and in accordance with the procedures of G.S. 163-287. The board of commissioners shall hold a public hearing on the question at least 30 days before the date the election is to be held.

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

"[] FOR [] AGAINST

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

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

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

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

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

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

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

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

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

SECTION 6.3. Article 46 of Chapter 105 of the General Statutes reads as rewritten:

"Article 46.

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

"§ 105-535. Short title.

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

"§ 105-536. Limitations.

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

"§ 105-537. Levy.

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

(a1) 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 must be in an increment of one-quarter percent (1/4%).

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

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

(4) 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%).

(b) ~~Vote. — Referendum. — The board of county commissioners 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 as provided in this Article. The election shall be held in accordance with the procedures of G.S. 163-287.~~

(c) 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

Local sales and use tax at the rate of one quarter percent (0.25%) [the applicable rate stated in both words and as a percentage] in addition to all other State and local sales and use taxes."

...
(e) One-Half Percent (1/2%) Transit-Authorized Counties. — Notwithstanding subsection (a) of this section, the local sales and use tax rate of a county may exceed two and one-half percent (2 1/2%) if the county is authorized to levy a tax at the rate of one-half cent (1/2¢) under Article 43 of this Chapter. In no event may the local sales and use tax rate in a county exceed two and three-quarters percent (2 3/4%).

"§ 105-538. Administration of taxes.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary

shall not divide the amount allocated to a county between the county and the municipalities within the county."

SECTION 6.4. G.S. 105-164.3(4a) reads as rewritten:

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

- a. The State's general rate of tax set in ~~G.S. 105-164.4(a)~~ plus the G.S. 105-164.4(a).
- b. The sum of the rates of the local sales and use taxes authorized for every county in this State by ~~Subchapter VIII~~ Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws, Article 40 of this Chapter, and Article 42 of this Chapter for every county in this State.
- c. One-half of the maximum rate of tax authorized by Article 46 of this Chapter."

SECTION 6.5. Notwithstanding Article 14B of Chapter 136 of the General Statutes, no State funds may be used for light rail projects located in Wake County if Wake County authorizes the levy of a one-half cent (1/2¢) local sales and use tax under Part 4 of Article 43 of Chapter 105 of the General Statutes.

SECTION 6.6. Except as otherwise provided, this section is effective when this act becomes law.

PART VII. LOCAL OPTION SALES TAX FOR CITIES

SECTION 7.(a) Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

" Article 47.

" One-Quarter Cent (1/4¢) City Sales and Use Tax.

"§ 105-540. Definitions.

The following definitions apply in this Article:

- (1) City.- Defined in G.S. 160A-1.
- (2) Council.- Defined in G.S. 160A-1.
- (3) Net proceeds.- Gross proceeds of the tax collected in a city under this Article less taxes refunded and the cost to the State of collecting and administering the tax, as determined by the Secretary.

"§ 105-541. Authorization and levy.

A city council may, by resolution, levy a city sales and use tax at the rate of one-quarter percent (0.25%). This tax is in addition to any other State or local sales and use taxes. Before adopting a resolution under this section, the council must give at least 10 days' public notice of its intent to levy the tax and must hold a public hearing on the proposed levy.

"§ 105-542. Administration.

Except as provided in this Article, the provisions of Article 39 of this Subchapter concerning the levy, collection, administration, and repeal of the taxes authorized by that Article apply to the taxes authorized by this Article. When applying the provisions of Article 39 to this Article, references to a "county," "counties," or "board of county commissioners" are considered to be references to a "city," "cities," and "council" respectively. G.S. 105-468.1 is an administrative provision that applies to this Article. A tax levied under this Article does not apply to the sales price of food that is exempt from State sales and use tax under G.S. 105-164.13B or to the sales price of a bundled transaction that is subject to county sales and use taxes under G.S. 105-467(a)(5a).

"§ 105-543. Monthly distribution to taxing cities.

The Secretary must distribute on a monthly basis to each taxing city under this Article the net proceeds of the taxes collected in that city. If the Secretary cannot source taxes collected in a month to a particular city, the Secretary must allocate the unsourced amount among the taxing

1 cities in proportion to the amount that can be sourced to them for that month. Amounts
2 collected by electronic funds transfer payments are included in the distribution for the month in
3 which the return that applies to the payment is received.

4 **"§ 105-544. Use of tax proceeds.**

5 A city may use the net proceeds of a tax levied under this Article for any public purpose.

6 **SECTION 7.(b)** This section is effective when it becomes law.

7
8 **PART VIII. AMEND LAWS PERTAINING TO NC MEDICAL BOARD**

9 **SECTION 8.(a)** G.S. 90-2(b) reads as rewritten:

10 "(b) No member shall serve more than two complete ~~consecutive~~ three-year ~~terms, terms~~
11 in a lifetime, except that each member shall serve until a successor is chosen and qualifies."

12 **SECTION 8.(b)** G.S. 90-3(b) reads as rewritten:

13 "(b) To be considered qualified for a physician position or the physician assistant or
14 nurse practitioner position on the Board, an applicant shall meet each of the following criteria:

15 ...

16 (10) Have not served more than 72 months as a member of the Board."

17 **SECTION 8.(c)** G.S. 90-3(c) reads as rewritten:

18 "(c) The ~~review panel~~ Review Panel shall recommend at least two qualified nominees
19 for each open position on the Board. If the Governor chooses not to appoint either of the
20 recommended nominees, the Review Panel shall recommend at least two new qualified
21 nominees."

22 **SECTION 8.(d)** G.S. 90-3 is amended by adding new subsections to read:

23 "(f) Notwithstanding any provision of G.S. 90-16, the Board may provide confidential
24 and nonpublic licensing and investigative information in its possession to the Review Panel.

25 (g) All applications, records, papers, files, reports, and all investigative and licensing
26 information received by the Review Panel from the Board and other documents received or
27 gathered by the Review Panel, its members, employees, agents, and consultants as a result of
28 soliciting, receiving, and reviewing applications and making recommendations as required in
29 this section shall not be considered public records within the meaning of Chapter 132 of the
30 General Statutes. All such information shall be privileged, confidential, and not subject to
31 discovery, subpoena, or other means of legal compulsion for release to any person other than
32 the Review Panel, the Board, and their employees, agents, or consultants, except as provided in
33 this section. The Review Panel shall publish on its Internet Web site the names and practice
34 addresses of all applicants within 10 days after the application deadline. The Review Panel
35 shall publish on its Internet Web site the names and practice addresses of the nominees
36 recommended to the Governor within 10 days after notifying the Governor of those
37 recommendations and not less than 30 days prior to the expiration of the open position on the
38 Board.

39 (h) The Review Panel is a public body within the meaning of Article 33C of Chapter
40 143 of the General Statutes. In addition to the provisions contained in Article 33C of Chapter
41 143 of the General Statutes permitting a public body to conduct business in a closed session,
42 the Review Panel shall meet in closed session to review applications; interview applicants;
43 review and discuss information received from the Board; and discuss, debate, and vote on
44 recommendations to the Governor."

45 **SECTION 8.(e)** G.S. 90-5.2(7) reads as rewritten:

46 "(7) ~~An A current, active e-mail address or facsimile number address, which shall~~
47 not be made available to the public and shall considered a public record
48 within the meaning of Chapter 132 of the General Statutes. This information
49 may be used or made available by the Board for the purpose of expediting
50 the dissemination of disseminating or soliciting information about a
51 affecting public health emergency or the practice of medicine."

1 **SECTION 8.(f)** G.S. 90-5.2(a1) reads as rewritten:

2 "(a1) The Board shall make e-mail addresses ~~and facsimile numbers~~ reported pursuant to
3 G.S. 90-5.2(a)(7) available to the Department of Health and Human Services for use in the
4 North Carolina Controlled Substance Reporting System established by Article 5E of this
5 Chapter."

6 **SECTION 8.(g)** G.S. 90-8.1 reads as rewritten:

7 **"§ 90-8.1. Rules governing applicants for licensure.**

8 (a) The North Carolina Medical Board is empowered to adopt rules that prescribe
9 additional qualifications for an applicant, including education and examination requirements
10 and application procedures.

11 (b) The Board shall not deny an application for licensure based solely on the applicant's
12 failure to become board certified."

13 **SECTION 8.(h)** G.S. 90-13.1(a) reads as rewritten:

14 "(a) Each applicant for a license to practice medicine and surgery in this State under
15 either G.S. 90-9.1 or G.S. 90-9.2 shall pay to the North Carolina Medical Board an application
16 fee of ~~three hundred fifty dollars (\$350.00)~~ (\$400.00)."

17 **SECTION 8.(i)** G.S. 90-13.2 reads as rewritten:

18 **"§ 90-13.2. Registration every year with Board.**

19 (a) Every person licensed to practice medicine by the North Carolina Medical Board
20 shall register annually with the Board within 30 days of the person's birthday.

21 (b) A person who registers with the Board shall report to the Board the person's name
22 and office and residence address and any other information required by the Board, and shall
23 pay an annual registration fee of ~~one hundred seventy-five dollars (\$175.00)~~,
24 (\$250.00), except those who have a limited license to practice in a medical education and
25 training program approved by the Board for the purpose of education or training shall pay a
26 registration fee of ~~one hundred twenty-five dollars (\$125.00)~~, (\$125.00) and those who have a
27 retired limited volunteer license pursuant to G.S. 90-12.1B ~~shall pay an annual registration fee~~
28 ~~of twenty-five dollars (\$25.00), and those who have or a limited volunteer license pursuant to~~
29 ~~G.S. 90-12.1A shall pay no annual registration fee. However, licensees who have a limited~~
30 ~~license to practice for the purpose of education and training under G.S. 90-12.01 shall not be~~
31 ~~required to pay more than one annual registration fee for each year of training.~~

32 (c) ~~A physician who is not actively engaged in the practice of medicine in North~~
33 ~~Carolina and who does not wish to register the license may direct the Board to place the license~~
34 ~~on inactive status.~~

35 (d) A physician who is not actively engaged in the practice of medicine in North
36 Carolina and who does not wish to register the license may direct the Board to place the license
37 on inactive status.

38 (e) A physician who fails to register as required by this section shall pay an additional
39 fee of fifty dollars (\$50.00) to the Board. The license of any physician who fails to register and
40 who remains unregistered for a period of 30 days after certified notice of the failure is
41 automatically inactive. The Board shall retain jurisdiction over the holder of the inactive
42 license.

43 (f) Except as provided in G.S. 90-12.1B, a person whose license is inactive shall not
44 practice medicine in North Carolina nor be required to pay the annual registration fee.

45 (g) Upon payment of all accumulated fees and penalties, the license of the physician
46 may be reinstated, subject to the Board requiring the physician to appear before the Board for
47 an interview and to comply with other licensing requirements. The penalty may not exceed the
48 maximum fee for a license under G.S. 90-13.1.

49 (h) The Board shall not deny a licensee's annual registration based solely on the
50 licensee's failure to become board certified."

51 **SECTION 8.(j)** G.S. 90-14(n) reads as rewritten:

"(n) Notwithstanding subsection (m) of this section, if the licensee has retained ~~counsel and the Board has not made a nonpublic determination to initiate disciplinary proceedings,~~ counsel, the Board may serve to both the licensee and the licensee's counsel orders to produce, ~~orders to appear, or submit to assessment, examination, or orders following a hearing, or~~ provide notice that the Board will not be taking any further action against a ~~licensee to both the licensee and the licensee's counsel, licensee.~~"

SECTION 8.(k) G.S. 90-14.2 is amended by adding a new subsection to read:

"(c) Once charges have been issued, the parties may engage in discovery as provided in G.S. 1A-1, the North Carolina Rules of Civil Procedure. Additionally, pursuant to any written request by the respondent or respondent's counsel, the Board shall provide information obtained during an investigation, except for the following:

- (1) Information that is subject to attorney-client privilege or is attorney work product.
- (2) Information that would identify an anonymous complainant.
- (3) Information generated during an investigation that will not be offered into evidence by the Board and is related to:
 - a. Advice, opinions, or recommendations of the Board staff, consultants, or agents.
 - b. Deliberations by the Board and its committees during an investigation."

SECTION 8.(l) G.S. 90-14.13(a1)(1) reads as rewritten:

"(a1) A hospital is not required to report:

- (1) The suspension or limitation of a physician's privileges for failure to timely complete medical ~~records unless the suspension or limitation is the third within the calendar year for failure to timely complete medical records.~~ Upon reporting the third suspension or limitation, the hospital shall also ~~report the previous two suspensions or limitations records.~~"

SECTION 8.(m) Article 1D of Chapter 90 of the General Statutes is renamed as follows:

"Article 1D.

"Peer Review."Health Program for Medical Professionals."

SECTION 8.(n) G.S. 90-21.22 reads as rewritten:

"§ 90-21.22. ~~Peer review agreements.~~Health program for medical professionals.

(a) The North Carolina Medical Board ~~may, under rules adopted by the Board in compliance with Chapter 150B of the General Statutes, (Board) may~~ enter into agreements with the North Carolina Medical Society ~~and its local medical society components, and with (Society),~~ the North Carolina Academy of Physician Assistants ~~(Academy), and the North Carolina Physicians Health Program (Program) for the purpose purposes of conducting peer review activities. Peer review activities to be covered by such agreements shall include investigation, review, and evaluation of records, reports, complaints, litigation and other information about the practices and practice patterns of physicians licensed by the Board, and of physician assistants approved by the Board, and shall include programs for impaired physicians and impaired physician assistants. Agreements between the Academy and the Board shall be limited to programs for impaired physicians and physician assistants and shall not include any other peer review activities.~~ identifying, reviewing, and evaluating the ability of licensees of the Board who have been referred to the Program to function in their professional capacity and to coordinate regimens for treatment and rehabilitation. The agreement shall include guidelines for all items outlined below:

- (1) The assessment, referral, monitoring, support, and education of licensees of the Board by reason of a physical or mental illness, a substance use disorder, or professional sexual misconduct.

- (2) Procedures for the Board to refer licensees to the Program.
- (3) Criteria for the Program to report licensees to the Board.
- (4) A procedure by which licensees may obtain review of recommendations by the Program regarding assessment or treatment.
- (5) Periodic reporting of statistical information by the Program to the Board, the Society, and the Academy.
- (6) Maintaining the confidentiality of nonpublic information.
- (b) ~~Peer review agreements shall include provisions for the society and for the Academy to receive relevant information from the Board and other sources, conduct the investigation and review in an expeditious manner, provide assurance of confidentiality of nonpublic information and of the review process, make reports of investigations and evaluations to the Board, and to do other related activities for promoting a coordinated and effective peer review process. Peer review agreements shall include provisions assuring due process.~~
- (c) ~~Each society which enters a peer review agreement with the Board shall establish and maintain a program for impaired physicians licensed by the Board. The Academy, after entering a peer review agreement with the Board, shall either enter an agreement with the North Carolina Medical Society for the inclusion of physician assistants in the Society's program for impaired physicians, or shall establish and maintain the Academy's own program for impaired physician assistants. The purpose of the programs shall be to identify, review, and evaluate the ability of those physicians and physician assistants to function in their professional capacity and to provide programs for treatment and rehabilitation. The North Carolina Physicians Health Program (Program) is an independent organization for medical professionals that provides screening, referral, monitoring, educational, and support services. The Board, Society, and the Academy may provide funds for the administration of impaired physician and impaired physician assistant programs and shall adopt rules with provisions for definitions of impairment; guidelines for program elements; procedures for receipt and use of information of suspected impairment; procedures for intervention and referral; monitoring treatment, rehabilitation, post-treatment support and performance; reports of individual cases to the Board; periodic reporting of statistical information; assurance of confidentiality of nonpublic information and of the review process.~~ the Program.
- (d) ~~Upon investigation and review of a physician licensed by the Board, or a physician assistant approved by the Board, or upon receipt of a complaint or other information, a society which enters a peer review agreement with the Board, or the Academy if it has a peer review agreement with the Board, as appropriate, The Program shall report immediately to the Board detailed information about any physician or physician assistant licensed or approved by the Board if licensee of the Board who meets any of the following criteria:~~
- (1) ~~The physician or physician assistant constitutes an imminent danger to the public or to himself-patient care by reason of impairment, mental illness, physical illness, the commission of substance use disorder, professional sexual boundary violations, misconduct, or any other reason;reason.~~ The licensee constitutes an imminent danger to the public or to himself-patient care by reason of impairment, mental illness, physical illness, the commission of substance use disorder, professional sexual boundary violations, misconduct, or any other reason;reason.
- (2) ~~The physician or physician assistant The licensee refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence; or submit to an assessment as ordered by the Board, has entered into a monitoring contract and fails to comply with the terms of the Program's monitoring contract, or is still unsafe to practice medicine after treatment.~~ The licensee refuses to cooperate with the program, refuses to submit to treatment, or is still impaired after treatment and exhibits professional incompetence; or submit to an assessment as ordered by the Board, has entered into a monitoring contract and fails to comply with the terms of the Program's monitoring contract, or is still unsafe to practice medicine after treatment.
- (3) ~~It reasonably appears that there are other grounds for disciplinary action.~~
- (e) ~~Any confidential patient information and other nonpublic information acquired, created, or used in good faith by the Academy or a society~~ Program pursuant to this section

1 ~~shall remain confidential and shall not be subject to discovery or subpoena in a civil case. is~~
2 ~~privileged, confidential, and not subject to discovery, subpoena, or other means of legal~~
3 ~~compulsion for release to any person other than to the Board, the Program, or their employees~~
4 ~~or consultants. No person participating in good faith in the peer review or impaired physician or~~
5 ~~impaired physician assistant programs of this section Program shall be required in a civil case~~
6 ~~to disclose the fact of participation in the Program or any information acquired or opinions,~~
7 ~~recommendations, or evaluations acquired or developed solely in the course of participating in~~
8 ~~any agreements the Program pursuant to this section.~~

9 (f) ~~Peer review activities Activities~~ conducted in good faith pursuant to ~~any the~~
10 ~~agreement under~~ authorized by subsection (a) of this section shall not be grounds for civil
11 action under the laws of this State ~~and are deemed to be State directed and sanctioned and shall~~
12 ~~constitute State action for the purposes of application of antitrust laws.State.~~

13 (g) Upon the written request of a licensee, the Program shall provide the licensee and
14 the licensee's legal counsel with a copy of a written assessment of the licensee prepared as part
15 of the licensee's participation in the Program. In addition, the licensee shall be entitled to a copy
16 of any written assessment created by a treatment provider or facility at the recommendation of
17 the Program, to the extent permitted by State and federal laws and regulations. Any information
18 furnished to a licensee pursuant to this subsection shall be inadmissible in evidence and shall
19 not be subject to discovery in any civil proceeding. However, this subsection shall not be
20 construed to make information, documents, or records otherwise available for discovery or use
21 in a civil action immune from discovery or use in a civil action merely because the information,
22 documents, or records were included as part of the Program's assessment of the licensee or
23 were the subject of information furnished to the licensee pursuant to this subsection. For
24 purposes of this subsection, a civil action or proceeding shall not include administrative actions
25 or proceedings conducted in accordance with Article 1 of Chapter 90 and Chapter 150B of the
26 General Statutes.

27 (h) The Board has authority to adopt, amend, or repeal rules as may be necessary to
28 carry out and enforce the provisions of this section."

29 **SECTION 8.(o)** G.S. 90-16(d) is repealed.

30 **SECTION 8.(p)** This section becomes effective January 1, 2016.

31 32 **PART IX. EFFECTIVE DATE**

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