

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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SENATE DRS35216-RBx-6 (03/23)

Short Title: 21st Century Tax Modernization Plan. (Public)

Sponsors: Senators Clodfelter and Jenkins (Primary Sponsors).

Referred to:

- 1 A BILL TO BE ENTITLED
2 AN ACT TO PROMOTE ECONOMIC DEVELOPMENT IN NORTH CAROLINA BY
3 ESTABLISHING A SOUND STATE TAX STRUCTURE THAT REVISES THE
4 EXISTING STRUCTURE ON A REVENUE-NEUTRAL BASIS, LOWERS ALL MAJOR
5 TAX RATES, AND MAKES THE STRUCTURE SIMPLER, FAIRER, AND
6 CONSISTENT WITH THE MODERN ECONOMY, AS RECOMMENDED BY PAST
7 TAX STUDIES.
8 The General Assembly of North Carolina enacts:
9 **PART I. GENERAL FINDINGS AND PURPOSE**
10 **PART II. PERSONAL TAX CHANGES**
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12 2.2 Individual Income Tax Changes
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- 1 5.2 Replace Distributions With Expanded Sales Tax Base
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5 **PART VI. ACCOUNT FOR TAX EXPENDITURES IN THE BUDGET**

- 6 6.1 Specific Findings and Purpose
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8 **PART VII. TRANSITIONAL PROVISIONS AND EFFECTIVE DATE**

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10 **PART I. GENERAL FINDINGS AND PURPOSE**

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

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

26 **SECTION 1.(b)** It is the intent of this legislation to promote economic
27 development by adopting the comprehensive tax reform recommendations of numerous study
28 committees charged with developing a 21st Century tax policy for the State. Adoption of a
29 modern tax structure will accomplish the following objectives:

- 30 (1) Make North Carolina's tax system more competitive relative to our peer
31 states.
32 (2) Conform North Carolina's tax system to the current economy and not that of
33 the 1933 economy.
34 (3) Stabilize North Carolina's tax base and provide a reliable revenue stream for
35 the future.
36 (4) Make North Carolina's tax system more progressive and more fair so that
37 individual taxpayers and business taxpayers who are in very similar
38 circumstances to one another are treated in roughly the same way by the tax
39 system.
40 (5) Balance North Carolina's tax revenues among the different types of taxes
41 and the different groups of taxpayers on a revenue-neutral basis. The
42 revenue-neutral basis for the legislation is the State tax revenue generated
43 for the General Fund for fiscal year 2011-2012.

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

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46 **PART II. PERSONAL TAX CHANGES**

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48 **2.1 SPECIFIC FINDING AND PURPOSE**

49 **SECTION 2.1.(a)** The General Assembly of North Carolina finds the following:

- (1) North Carolina's individual income tax system has become increasingly less progressive over the years due to the failure to index tax brackets, exemptions, deductions, and credits for inflation.
- (2) A substantial majority of North Carolina's individual income tax filers do not claim itemized deductions, including those for mortgage interest, charitable contributions, property taxes, and medical expenses. Converting those itemized deductions to tax credits would extend the benefits of these deductions to all taxpayers, not just those who currently itemize their deductions.
- (3) North Carolina's departure from federal definitions of adjusted gross income and taxable income results in substantially greater complexity for the individual income tax return. Conforming North Carolina's definitions to these federal definitions, as widely done by other states that impose an individual income tax, would simplify the process of tax return preparation and tax administration. Conforming to the federal definitions of adjusted gross income would also enable a general lowering of the tax rates at all levels.
- (4) North Carolina relies on the individual income tax for over half of its General Fund revenues. As a result of this reliance, North Carolina taxes income more heavily than its neighboring states and more heavily than is recommended by economists.

SECTION 2.1.(b) It is the intent of this Part to promote economic development by establishing a broader individual income tax base and lowering individual income tax rates. To this end, this Part does the following:

- (1) Adopts federal adjusted gross income as the starting point in calculating North Carolina taxable income, thereby broadening and simplifying the tax base.
- (2) Indexes all tax brackets to the same extent as the federal tax brackets, thereby eliminating "bracket creep."
- (3) Converts the most used itemized tax deductions into tax credits, thereby enabling all taxpayers to claim these tax benefits.
- (4) Replaces the personal exemption with a zero bracket amount, thereby simplifying the calculation of net taxable income and preserving the North Carolina constitutional mandate to allow personal exemptions and deductions.
- (5) Replaces the current three tax brackets with five tax brackets and lowers every bracket rate and threshold, thereby improving the progressivity of the individual income tax.

SECTION 2.1.(c) This section is effective when it becomes law.

2.2 INDIVIDUAL INCOME TAX CHANGES

SECTION 2.2.(a) The following statutes are recodified as indicated:

<u>Current Statute</u>	<u>Recodified Statute</u>
G.S. 105-133	G.S. 105-153.1
G.S. 105-134	G.S. 105-153.2
G.S. 105-134.1	G.S. 105-153.3
G.S. 105-134.5	G.S. 105-153.4
G.S. 105-151	G.S. 105-153.8
G.S. 105-152	G.S. 105-153.7
G.S. 105-151.11	G.S. 105-153.10
G.S. 105-151.29	G.S. 105-153.12

1 G.S. 105-151.31 G.S. 105-153.9

2 **SECTION 2.2.(b)** The following statutes are repealed:

3 G.S. 105-134.2

4 G.S. 105-134.3

5 G.S. 105-134.4

6 G.S. 105-134.6

7 G.S. 105-134.7

8 G.S. 105-134.8

9 G.S. 105-151.1

10 G.S. 105-151.12

11 G.S. 105-151.13

12 G.S. 105-151.14

13 G.S. 105-151.18

14 G.S. 105-151.20

15 G.S. 105-151.21

16 G.S. 105-151.24

17 G.S. 105-151.25

18 G.S. 105-151.26

19 G.S. 105-151.28

20 G.S. 105-151.32

21 **SECTION 2.2.(c)** G.S. 105-134.1, recodified by this act as G.S. 105-153.3, reads
22 as rewritten:

23 **"§ 105-153.3. Definitions.**

24 The following definitions apply in this Part:

25 (1) Adjusted gross income. – Defined in section 62 of the Code.

26 (1a) Code. – Defined in G.S. 105-228.90.

27 (2) Department. – ~~The Department of Revenue.~~ Defined in G.S. 105-228.90.

28 (3) Educational institution. – ~~An educational institution that normally maintains
29 a regular faculty and curriculum and normally has a regularly organized
30 body of students in attendance at the place where its educational activities
31 are carried on.~~

32 (4) Fiscal year. – Defined in section 441(e) of the Code.

33 (5) Gross income. – Defined in section 61 of the Code.

34 (6) Head of household. – Defined in section 2(b) of the Code.

35 (7) Individual. – A human being.

36 (7a) Limited liability company. – Either a domestic limited liability company
37 organized under Chapter 57C of the General Statutes or a foreign limited
38 liability company authorized by that Chapter to transact business in this
39 State that is classified for federal income tax purposes as a partnership. As
40 applied to a limited liability company that is a partnership under this Part,
41 the term "partner" means a member of the limited liability company.

42 (7b) Repealed by Session Laws 1998-98, s. 9.

43 (8) Married individual. – An individual who is married and is considered
44 married as provided in section 7703 of the Code.

45 (9) Nonresident individual. – An individual who is not a resident of this State.

46 (10) North Carolina taxable income. – Defined in ~~G.S. 105-134.5.~~ G.S. 105-153.4.

47 (10a) Partnership. – A domestic partnership, a foreign partnership, or a limited
48 liability company.

49 (11) Person. – Defined in G.S. 105-228.90.

50 (12) Resident. – An individual who is domiciled in this State at any time during
51 the taxable year or who resides in this State during the taxable year for other

1 than a temporary or transitory purpose. In the absence of convincing proof to
2 the contrary, an individual who is present within the State for more than 183
3 days during the taxable year is presumed to be a resident, but the absence of
4 an individual from the state for more than 183 days raises no presumption
5 that the individual is not a resident. A resident who removes from the State
6 during a taxable year is considered a resident until he has both established a
7 definite domicile elsewhere and abandoned any domicile in this State. The
8 fact of marriage does not raise any presumption as to domicile or residence.

9 (13) ~~Retirement benefits.—Amounts paid to a former employee or the beneficiary
10 of a former employee under a written retirement plan established by the
11 employer to provide payments to an employee or the beneficiary of an
12 employee after the end of the employee's employment with the employer
13 where the right to receive the payments is based upon the employment
14 relationship. With respect to a self-employed individual or the beneficiary of
15 a self-employed individual, the term means amounts paid to the individual or
16 beneficiary of the individual under a written retirement plan established by
17 the individual to provide payments to the individual or the beneficiary of the
18 individual after the end of the self employment. In addition, the term
19 includes amounts received from an individual retirement account described
20 in section 408 of the Code or from an individual retirement annuity
21 described in section 408 of the Code. For the purpose of this subdivision, the
22 term "employee" includes a volunteer worker.~~

23 (14) S Corporation. – Defined in G.S. 105-131(b).

24 (15) Secretary. – ~~The Secretary of Revenue.~~ Defined in G.S. 105-228.90.

25 (16) Taxable income. – Defined in section 63 of the Code.

26 (17) Taxable year. – Defined in section 441(b) of the Code.

27 (18) Taxpayer. – An individual subject to the tax imposed by this Part.

28 (19) ~~This State.—The State of North Carolina."~~

29 **SECTION 2.2.(d)** G.S. 105-134.5, recodified by this act as G.S. 105-153.4, reads
30 as rewritten:

31 **"§ 105-153.4. North Carolina taxable income defined.**

32 (a) Residents. – ~~For residents of this State, an individual who is a resident of this State,~~
33 the term "North Carolina taxable income" means the taxpayer's ~~taxable income as determined~~
34 ~~under the Code, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7,~~ adjusted gross
35 income as modified in G.S. 105-153.5.

36 (b) Nonresidents. – ~~For a nonresident individuals, individual,~~ the term "North Carolina
37 taxable income" means the taxpayer's ~~taxable income as determined under the Code, adjusted~~
38 ~~as provided in G.S. 105-134.6 and G.S. 105-134.7, multiplied by a fraction the denominator of~~
39 ~~which is the taxpayer's gross income as determined under the Code, adjusted as provided in~~
40 ~~G.S. 105-134.6 and G.S. 105-134.7, and the numerator of which is the amount of that gross~~
41 ~~income, as adjusted,~~ adjusted gross income as modified in G.S. 105-153.5, multiplied by a
42 fraction, the denominator of which is the taxpayer's adjusted gross income as modified in
43 G.S. 105-153.5, and the numerator of which is the amount of that adjusted gross income, as
44 modified, that is derived from North Carolina sources and is attributable to the ownership of
45 any interest in real or tangible personal property in this State, is derived from a business, trade,
46 profession, or occupation carried on in this State, or is derived from gambling activities in this
47 State.

48 (c) Part-year Residents. – If an individual was a resident of this State for only part of
49 the taxable year, having moved into or removed from the State during the year, the term "North
50 Carolina taxable income" has the same meaning as in subsection (b) of this section except that
51 the numerator ~~shall include gross income, adjusted as provided in G.S. 105-134.6 and~~

1 G.S. 105-134.7, includes adjusted gross income, as modified, derived from all sources during
2 the period the individual was a resident.

3 (d) S Corporations and Partnerships. – In order to calculate the numerator of the
4 fraction provided in subsection (b), (b) of this section, the amount of a shareholder's pro rata
5 share of S Corporation income that is includable in the numerator shall be is the shareholder's
6 pro rata share of the S Corporation's income attributable to the State, as defined in
7 G.S. 105-131(b)(4). In order to calculate the numerator of the fraction provided in subsection
8 (b) of this section for a member of a partnership or other unincorporated business with that has
9 one or more nonresident members that and operates in one or more other states, the amount of
10 the member's distributive share of income of the business that is includable in the numerator
11 shall be is determined by multiplying the total net income of the business by the ratio
12 ascertained under the provisions of G.S. 105-130.4. As used in this subsection, total net income
13 means the entire gross income of the business less all expenses, taxes, interest, and other
14 deductions allowable under the Code which that were incurred in the operation of the business.

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

17 **SECTION 2.2.(e)** Part 2 of Article 4 of Chapter 105 of the General Statutes is
18 amended by adding the following new sections to read:

19 **"§ 105-153.5. Modifications to adjusted gross income.**

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

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

24 a. The United States or its possessions.

25 b. This State, a political subdivision of this State, or a commission, an
26 authority, or another agency of this State or of a political subdivision
27 of this State.

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

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

32 (4) Refunds of State, local, and foreign income taxes.

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

37 a. Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS 6625, 95 CVS
38 8230.

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

40 c. Patton v. State, 95 CVS 04346.

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

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

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

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

- 1 (8) The amount paid to the taxpayer by the State under G.S. 148-84 as
2 compensation for pecuniary loss suffered by reason of erroneous conviction
3 and imprisonment.
- 4 (9) An amount equal to twenty percent (20%) of the amount added to federal
5 taxable income as accelerated depreciation under subdivision (b)(5) of this
6 section. For the amount added to taxable income in the 2010 taxable year,
7 the deduction allowed by this subdivision applies to the first five taxable
8 years beginning on or after January 1, 2011. For the amount added to taxable
9 income in the 2011 taxable year, the deduction allowed by this subdivision
10 applies to the first five taxable years beginning on or after January 1, 2012.
11 For the amount added to taxable income in the 2012 taxable year, the
12 deduction allowed by this subdivision applies to the first five taxable years
13 beginning on or after January 1, 2013.
- 14 (10) An amount equal to twenty percent (20%) of the amount added to federal
15 taxable income under subdivision (b)(6) of this section. For the amount
16 added to taxable income in the 2010 taxable year, the deduction allowed by
17 this subdivision applies to the first five taxable years beginning on or after
18 January 1, 2011. For the amount added to taxable income in the 2011 taxable
19 year, the deduction allowed by this subdivision applies to the first five
20 taxable years beginning on or after January 1, 2012.
- 21 (b) Additions. – In calculating North Carolina taxable income, a taxpayer must add to
22 the taxpayer's adjusted gross income any of the following items that are not included in the
23 taxpayer's adjusted gross income:
- 24 (1) Interest upon the obligations of states other than this State, political
25 subdivisions of those states, and agencies of those states and their political
26 subdivisions.
- 27 (2) The amount by which a shareholder's share of S Corporation income is
28 reduced under section 1366(f)(2) of the Code for the taxable year by the
29 amount of built-in gains tax imposed on the S Corporation under section
30 1374 of the Code.
- 31 (3) The amount by which the basis of property under the Code exceeds the basis
32 of the property under this Article, in the year the taxpayer disposes of the
33 property.
- 34 (4) The amount excluded from gross income under section 199 of the Code.
- 35 (5) For taxable years 2010 through 2012, eighty-five percent (85%) of the
36 amount allowed as a special accelerated depreciation deduction under
37 section 168(k) or 168(n) of the Code for property placed in service during
38 the taxable year. In addition, for taxable year 2010, a taxpayer who placed
39 property in service during the 2009 taxable year and whose North Carolina
40 taxable income for the 2009 taxable year reflected a special accelerated
41 depreciation deduction allowed for the property under section 168(k) of the
42 Code must add eighty-five percent (85%) of the amount of the special
43 accelerated depreciation deduction. These adjustments do not result in a
44 difference in basis of the affected assets for State and federal income tax
45 purposes.
- 46 (6) For taxable years 2010 and 2011, eighty-five percent (85%) of the amount
47 by which the taxpayer's expense deduction under section 179 of the Code for
48 property placed in service in taxable year 2010 or 2011 exceeds the amount
49 that would have been allowed for the respective taxable year under section
50 179 of the Code as of May 1, 2010. For purposes of this subdivision, the
51 definition of section 179 property has the same meaning as under section

179 of the Code as of January 1, 2011. These adjustments do not result in a difference in basis of the affected assets for State and federal income tax purposes.

"§ 105-153.6. Individual income tax imposed.

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of an individual. For purposes of Section 2 of Article V of the North Carolina Constitution, the zero tax bracket provides an exemption so that only net incomes are taxed.

The tax is computed at the following percentages of the taxpayer's North Carolina taxable income:

(1) For married individuals who file a joint return under G.S. 105-153.7 and for surviving spouses, as defined in section 2(a) of the Code:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
0	\$10,000	0.0%
\$10,000	\$40,500	5.50%
\$40,000	\$100,000	6.50%
\$100,000	\$250,000	7.25%
\$250,000	N/A	7.50%

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

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
0	\$8,000	0.0%
\$8,000	\$32,000	5.50%
\$32,000	\$80,000	6.50%
\$80,000	\$200,000	7.25%
\$200,000	N/A	7.50%

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

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
0	\$5,000	0.0%
\$5,000	\$20,000	5.50%
\$20,000	\$50,000	6.50%
\$50,000	\$125,000	7.25%
\$125,000	N/A	7.50%

(4) For married individuals who do not file a joint return under G.S. 105-153.7:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
0	\$5,000	0.0%
\$5,000	\$20,000	5.50%
\$20,000	\$50,000	6.50%
\$50,000	\$125,000	7.25%
\$125,000	N/A	7.50%

(b) Indexed Brackets. – For taxable years beginning on or after January 1, 2013, the "Over" and "Up To" rate bracket minimum and maximums that are set out in subsection (a) of this section and are a dollar amount above zero are indexed for the taxable year in accordance with the cost-of-living adjustment used under section 1 of the Code to index the federal rate brackets for that taxable year. The indexed rate brackets determined under this subsection apply in lieu of the rate brackets set out in subsection (a) of this section. The Secretary must publish the rate brackets set under this subsection.

(c) Withholding Tables. – The Secretary may provide tables that compute the amount of tax due for a taxable year under this Part. The tables do not apply to an individual who files a return under section 443(a)(1) of the Code for a period of less than 12 months due to a change in the individual's annual accounting period, or to an estate or trust."

1 **SECTION 2.2.(f)** G.S. 105-152 and G.S. 105-151, recodified by this act as
2 G.S. 105-153.7 and G.S. 105-153.8, read as rewritten:

3 **"§ 105-153.7. Income tax returns.**

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

6 (1) Every resident ~~required to file an income tax return for the taxable year~~
7 ~~under the Code and every~~ whose North Carolina taxable income exceeds the
8 amount subject to the zero tax rate under G.S. 105-153.6.

9 (1a) Every nonresident individual who (i) derived ~~meets~~ all of the following
10 requirements:

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

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

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

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

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

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

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

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

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

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

10 **"§ 105-153.8. Tax credits for income taxes paid to other states by individuals.**

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

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

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

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

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

40 **SECTION 2.2.(g)** G.S. 105-151.31 and G.S. 105-151.11, recodified by this act as
41 G.S. 105-153.9 and G.S. 105-153.10, read as rewritten:

42 **"§ 105-153.9. Earned income tax credit.**

43 (a) Credit. – An individual who claims for the taxable year an earned income tax credit
44 under section 32 of the Code is allowed a credit against the tax imposed by this Part equal to
45 five percent (5%) of the amount of credit for which the individual qualified ~~for~~ under section 32
46 of the Code. A nonresident or part-year resident who claims the credit allowed by this section
47 must reduce the amount of the credit by multiplying it by the fraction calculated under
48 ~~G.S. 105-134.5(b) or (c), G.S. 105-153.4(b) or (c)~~, as appropriate.

49 (b) Credit Refundable. – If the credit allowed by this section exceeds the amount of tax
50 imposed by this Part for the taxable year reduced by the sum of all credits allowable, the
51 Secretary must refund the excess to the taxpayer. The refundable excess is governed by the

1 provisions governing a refund of an overpayment by the taxpayer of the tax imposed in this
 2 Part. Section 3507 of the Code, Advance Payment of Earned Income Credit, does not apply to
 3 the credit allowed by this section. In computing the amount of tax against which multiple
 4 credits are allowed, nonrefundable credits are subtracted before refundable credits.

5 (c) Sunset. – This section is repealed effective for taxable years beginning on or after
 6 January 1, 2013.

7 **"105-153.10. Credit for child care and certain employment-related expenses.**

8 (a) Credit. – A person who is allowed a credit against federal income tax for a
 9 percentage of employment-related expenses under section 21 of the Code ~~shall be~~ is allowed as
 10 a credit against the tax imposed by this Part an amount equal to the applicable percentage of the
 11 employment-related expenses as defined in section 21(b)(2) of the Code. In order to claim the
 12 credit allowed by this section, the taxpayer must provide with the tax return the information
 13 required by the Secretary.

14 (a1) Applicable Percentage. – For employment-related expenses that are incurred only
 15 with respect to one or more dependents who are seven years old or older and are not physically
 16 or mentally incapable of caring for themselves, the applicable percentage is the appropriate
 17 percentage in the column labeled "Percentage A" in the table below, based on the taxpayer's
 18 adjusted gross income determined under the Code. For employment-related expenses with
 19 respect to any other qualifying individual, the applicable percentage is the appropriate
 20 percentage in the column labeled "Percentage B" in the table below, based on the taxpayer's
 21 adjusted gross ~~income determined under the Code.~~ income.

22 Filing Status	Adjusted Gross 23 Income	Percentage A	Percentage B
25 Head of 26 Household	Up to \$20,000	9%	13%
	27 Over \$20,000 28 up to \$32,000	8%	11.5%
	29 Over \$32,000	7%	10%
32 Surviving 33 Spouse or 34 Joint Return	Up to \$25,000	9%	13%
	36 Over \$25,000 37 up to \$40,000	8%	11.5%
	38 Over \$40,000	7%	10%
41 Single	Up to \$15,000	9%	13%
	43 Over \$15,000 44 up to \$24,000	8%	11.5%
	45 Over \$24,000	7%	10%
48 Married 49 Filing 50 Separately	Up to \$12,500	9%	13%

1	Over \$12,500		
2	up to \$20,000	8%	11.5%
3			
4	Over \$20,000	7%	10%

6 (b) Employment Related Expenses. – The amount of employment-related expenses for
 7 which a credit may be claimed may not exceed three thousand dollars (\$3,000) if the taxpayer's
 8 household includes one qualifying individual, as defined in section 21(b)(1) of the Code, and
 9 may not exceed six thousand dollars (\$6,000) if the taxpayer's household includes more than
 10 one qualifying individual. The amount of employment-related expenses for which a credit may
 11 be claimed is reduced by the amount of employer-provided dependent care assistance excluded
 12 from gross income.

13 (c) Limitations. – A nonresident or part-year resident who claims the credit allowed by
 14 this section ~~shall~~ must reduce the amount of the credit by multiplying it by the fraction
 15 calculated under ~~G.S. 105-134.5(b) or (c), G.S. 105-153.4(b) or (c),~~ as appropriate. ~~No credit~~
 16 ~~shall be allowed under this section for amounts deducted from gross income in calculating~~
 17 ~~taxable income under the Code.~~ The credit allowed by this section may not exceed the amount
 18 of tax imposed by this Part for the taxable year reduced by the sum of all credits allowable,
 19 except for payments of tax made by or on behalf of the taxpayer."

20 **SECTION 2.2.(h)** Part 2 of Article 4 of Chapter 105 of the General Statutes is
 21 amended by adding a new section to read:

22 "**§ 105-153.11. Other tax credits.**

23 (a) Children. – A taxpayer who is allowed a federal child tax credit under section 24 of
 24 the Code for the taxable year is allowed a credit against the tax imposed by this Part for the
 25 taxable year. The amount of credit allowed to a taxpayer whose adjusted gross income is less
 26 than the amount listed in the table below for that taxpayer's filing status is one hundred
 27 twenty-five dollars (\$125.00) for each dependent child for whom the taxpayer is allowed the
 28 federal credit. The amount of credit allowed to a taxpayer whose adjusted gross income equals
 29 or exceeds the amount listed in the table is one hundred dollars (\$100.00) for each dependent
 30 child for whom the taxpayer is allowed the federal credit.

<u>Filing Status</u>	<u>AGI</u>
<u>Married, filing jointly</u>	<u>\$100,000</u>
<u>Head of Household</u>	<u>80,000</u>
<u>Single</u>	<u>60,000</u>
<u>Married, filing separately</u>	<u>50,000</u>

36 (b) Charitable Contributions. – A taxpayer who makes charitable contributions during
 37 the taxable year that are deductible under section 170 of the Code is allowed a credit against the
 38 tax imposed by this Part for the taxable year. The credit is six percent (6%) of the amount
 39 deductible under section 170 of the Code. The credit may not exceed twenty percent (20%) of
 40 the taxpayer's adjusted gross income.

41 (c) Mortgage Interest. – A taxpayer who paid or accrued interest during the taxable year
 42 on acquisition indebtedness or home equity indebtedness that is deductible under section 163 of
 43 the Code is allowed a credit against the tax imposed by this Part. The credit is six percent (6%)
 44 of the interest paid or accrued during the taxable year. The credit may not exceed one thousand
 45 two hundred dollars (\$1,200). For taxable years beginning on or after January 1, 2013, the
 46 maximum credit amount is indexed for the taxable year in accordance with the cost-of-living
 47 adjustment determined under section 1 of the Code.

48 (d) Medical Expenses. – A taxpayer who paid expenses for medical care during the
 49 taxable year that are deductible under section 213 of the Code is allowed a credit against the tax
 50 imposed by this Part for the taxable year. The credit is six percent (6%) of the amount
 51 deductible under section 213 of the Code.

1 (e) Limitations. – A credit allowed under this section may not exceed the amount of tax
2 imposed by this Part for the taxable year reduced by the sum of all credits allowed, except
3 payments of tax made by or on behalf of the taxpayer. A nonresident or part-year resident who
4 claims a credit allowed by this section must reduce the amount of the credit by multiplying it
5 by the fraction calculated under G.S. 105-153.5(b) or (c), as appropriate.

6 **SECTION 2.2.(i)** G.S. 105-154(d) reads as rewritten:

7 "(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business
8 conducted in this State is owned by a nonresident individual or by a partnership having one or
9 more nonresident members, the manager of the business ~~shall~~must report the earnings of the
10 business in this State, the distributive share of the income of each nonresident owner or partner,
11 and any other information required by the Secretary. The manager of the business ~~shall~~must
12 pay with the return the tax on each nonresident owner or partner's share of the income
13 computed at the rate levied on individuals under ~~G.S. 105-134.2(a)(3)~~G.S. 105-153.6(a)(3).
14 The business may deduct the payment for each nonresident owner or partner from the owner or
15 partner's distributive share of the profits of the business in this State. If the nonresident partner
16 is not an individual and the partner has executed an affirmation that the partner will pay the tax
17 with its corporate, partnership, trust, or estate income tax return, the manager of the business is
18 not required to pay the tax on the partner's share. In this case, the manager ~~shall~~must include a
19 copy of the affirmation with the report required by this subsection."

20 **SECTION 2.2.(j)** G.S. 105-159 reads as rewritten:

21 "**§ 105-159. Federal corrections.**

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

31 **SECTION 2.2.(k)** Notwithstanding the provisions of G.S. 105-163.15, no addition
32 to tax may be made under that statute for a taxable year beginning on or after January 1, 2012,
33 and before January 1, 2013, with respect to any underpayment of individual income tax to the
34 extent the underpayment was created or increased by this section.

35 **SECTION 2.2.(l)** This section becomes effective for taxable years beginning on or
36 after January 1, 2012.

37 38 **2.3 SUBCHAPTER S TAX CONFORMING CHANGES**

39 **SECTION 2.3.(a)** G.S. 105-131.2 reads as rewritten:

40 "**§ 105-131.2. Adjustment and characterization of income.**

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

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

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

47 **SECTION 2.3.(b)** G.S. 105-131.5 reads as rewritten:

48 "**§ 105-131.5. Part-year resident shareholder.**

49 If a shareholder of an S Corporation is both a resident and nonresident of this State during
50 any taxable period, the shareholder's pro rata share of the S Corporation's income attributable to
51 the State and income not attributable to the State for the taxable period shall be further prorated

1 between the shareholder's periods of residence and nonresidence, in accordance with the
2 number of days in each period, as provided in ~~G.S. 105-134.5~~G.S. 105-153.4."

3 **SECTION 2.3.(c)** G.S. 105-131.7(c) reads as rewritten:

4 "(c) An S Corporation ~~shall~~must file with the Department, on a form prescribed by the
5 Secretary, the agreement of each nonresident shareholder of the corporation (i) to file a return
6 and make timely payment of all taxes imposed by this State on the shareholder with respect to
7 the income of the S Corporation, and (ii) to be subject to personal jurisdiction in this State for
8 purposes of the collection of any unpaid income tax, together with related interest and
9 penalties, owed by the nonresident shareholder. If the corporation fails to timely file an
10 agreement required by this subsection on behalf of any of its nonresident shareholders, then the
11 corporation ~~shall~~must at the time specified in subsection (d) of this section pay to the
12 Department on behalf of each nonresident shareholder with respect to whom an agreement has
13 not been timely filed an estimated amount of the tax due the State. The estimated amount of tax
14 due the State ~~shall be~~is computed at the rates levied in ~~G.S. 105-134.2(a)(3)~~
15 G.S. 105-153.6(a)(3) on the shareholder's pro rata share of the S Corporation's income
16 attributable to the State reflected on the corporation's return for the taxable period. An S
17 Corporation may recover a payment made pursuant to the preceding sentence from the
18 shareholder on whose behalf the payment was made."

19 **SECTION 2.3.(d)** G.S. 105-131.8(a) reads as rewritten:

20 "(a) For purposes of ~~G.S. 105-151~~G.S. 105-153.8 and G.S. 105-160.4, each resident
21 shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to
22 the shareholder's pro rata share of any net income tax paid by the S Corporation to a state that
23 does not measure the income of S Corporation shareholders by the income of the S
24 Corporation. For purposes of the preceding sentence, the term "net income tax" means any tax
25 imposed on or measured by a corporation's net income."

26 **SECTION 2.3.(e)** This section becomes effective for taxable years beginning on or
27 after January 1, 2012.

29 2.4 ESTATE TAX CONFORMING CHANGES

30 **SECTION 2.4.(a)** G.S. 105-160.2 reads as rewritten:

31 "§ 105-160.2. Imposition of tax.

32 The tax imposed by this Part ~~shall apply~~applies to the taxable income of estates and trusts
33 as determined under the provisions of the Code except as otherwise provided in this Part. The
34 taxable income of an estate or trust ~~shall be~~is the same as taxable income for ~~such an~~the estate
35 or trust under the provisions of the Code, adjusted as provided in ~~G.S. 105-134.6 and~~
36 ~~G.S. 105-134.7, except that the adjustments provided in G.S. 105-134.6 and G.S. 105-134.7~~
37 ~~shall be~~G.S. 105-153.5 and apportioned between the estate or trust and the beneficiaries based
38 on the distributions made during the taxable year. The tax ~~shall be~~is computed on the amount
39 of the taxable income of the estate or trust that is for the benefit of a resident of this State, or for
40 the benefit of a nonresident to the extent ~~that the income (i) is derived from North Carolina~~
41 ~~sources and is attributable to the ownership of any interest in real or tangible personal property~~
42 ~~in this State or (ii) is derived from a business, trade, profession, or occupation carried on in this~~
43 ~~State. For purposes of the preceding sentence, taxable income and gross income shall be~~
44 ~~computed subject to the adjustments provided in G.S. 105-134.6 and G.S. 105-134.7. The tax~~
45 ~~on the amount computed above shall be at the rates levied in G.S. 105-134.2(a)(3).~~ the income
46 benefiting the nonresident is considered North Carolina taxable income under
47 G.S. 105-153.4(b). The tax rate set in G.S. 105-153.6(a)(3) applies to the income taxable under
48 this Part. The tax computed under the provisions of this Part ~~shall~~must be paid by the fiduciary
49 responsible for administering the estate or trust."

50 **SECTION 2.4.(b)** G.S. 105-160.3(b) reads as rewritten:

51 "(b) The following credits are not allowed to an estate or trust:

- 1 (1) ~~G.S. 105-151.~~G.S. 105-153.8. Tax credits for income taxes paid to other
 2 states by individuals.
- 3 (2) ~~G.S. 105-151.11.~~ G.S. 105-153.10. Credit for child care and certain
 4 employment-related expenses.
- 5 (3) ~~G.S. 105-151.18.~~ Credit for the disabled.
- 6 (4) ~~G.S. 105-151.24.~~ G.S. 105-153.11(a). Credit for children.
- 7 (5) ~~G.S. 105-151.26.~~ G.S. 105-153.11(b). Credit for charitable ~~contributions by~~
 8 ~~nonitemizers.~~contributions.
- 9 (6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.
- 10 (7) ~~G.S. 105-151.28.~~ Credit for long-term care insurance.
- 11 (8) ~~G.S. 105-151.30.~~ Credit for recycling oyster shells.
- 12 (9) ~~G.S. 105-151.31.~~ G.S. 105-153.9. Earned income tax credit.
- 13 (10) ~~G.S. 105-151.32.~~ Credit for adoption expenses.
- 14 (11) G.S. 105-153.11(c). Credit for home mortgage interest.
- 15 (12) G.S. 105-153.11(d). Credit for medical expenses."

16 **SECTION 2.4.(c)** This section becomes effective for taxable years beginning on or
 17 after January 1, 2012.

18 2.5 WITHHOLDING TAX CONFORMING CHANGES

19 **SECTION 2.5.(a)** G.S. 105-163.1 reads as rewritten:

20 "§ 105-163.1. Definitions.

21 The following definitions apply in this Article:

- 22 ...
- 23 ...
- 24 (6) Individual. – Defined in ~~G.S. 105-134.1.~~G.S. 105-153.3.
- 25 ...
- 26 (13) Wages. – The term has the same meaning as in section 3401 of the Code
 27 except it does not include ~~either of the following:~~
- 28 a. ~~The amount of severance wages paid to an employee during the~~
 29 ~~taxable year that is exempt from State income tax for that taxable~~
 30 ~~year under G.S. 105-134.6(b)(11).~~
- 31 b. ~~The~~the amount an employer pays an employee as reimbursement for
 32 ordinary and necessary expenses incurred by the employee on behalf
 33 of the employer and in the furtherance of the business of the
 34 employer.

35"

36 **SECTION 2.5.(b)** G.S. 105-163.22 reads as rewritten:

37 "§ 105-163.22. Reciprocity.

38 The Secretary may, with the approval of the Attorney General, enter into agreements with
 39 the taxing authorities of states having income tax withholding statutes with such agreements to
 40 govern the amounts to be withheld from the wages and salaries of residents of such other state
 41 or states under the provisions of this Article when such other state or states grant similar
 42 treatment to the residents of this State. Such agreements may provide for recognition of the
 43 anticipated tax credits allowed under the provisions of ~~G.S. 105-151.~~G.S. 105-153.8 in
 44 determining the amounts to be withheld."

45 **SECTION 2.5.(c)** This act becomes effective for taxable years beginning on or
 46 after January 1, 2012.

47 2.6 OTHER CONFORMING CHANGES

48 **SECTION 2.6.(a)** G.S. 105-259(b) reads as rewritten:

49 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has
 50 access to tax information in the course of service to or employment by the State may not
 51

1 disclose the information to any other person unless the disclosure is made for one of the
2 following purposes:

3 ...
4 (34) To exchange information concerning a tax credit claimed under
5 G.S. 105-130.47 or ~~G.S. 105-151.29~~ G.S. 105-153.12 with the North
6 Carolina Film Office of the Department of Commerce and with the regional
7 film commissions.

8 ...
9 (36) To furnish to a taxpayer claiming a credit under G.S. 105-130.47 or
10 ~~G.S. 105-151.29~~ G.S. 105-153.12 information used by the Secretary to
11 adjust the amount of the credit claimed by the taxpayer.

12"

13 **SECTION 2.6.(b)** G.S. 105-277.3(d1) reads as rewritten:

14 "(d1) ~~Exception for Easements on Qualified Conservation Lands Previously Appraised at~~
15 ~~Use Value. Exception.~~ – Property that is appraised at its present-use value under
16 G.S. 105-277.4(b) shall continue to qualify for appraisal, assessment, and taxation as provided
17 in G.S. 105-277.2 through G.S. 105-277.7 as long as ~~(i) the property is subject to an~~
18 ~~enforceable conservation easement that would qualify for the conservation tax credit provided~~
19 ~~in G.S. 105-130.34 and G.S. 105-151.12, without regard to actual production or income~~
20 ~~requirements of this section; and (ii) the taxpayer received no more than seventy five percent~~
21 ~~(75%) of the fair market value of the donated property interest in compensation.~~ the property is
22 subject to a conservation easement that meets the property eligibility requirements under
23 G.S. 113A-232. Notwithstanding G.S. 105-277.3(b) and (b1), subsequent transfer of the
24 property does not extinguish its present-use value eligibility as long as the property remains
25 subject to ~~an enforceable a qualifying~~ a qualifying conservation easement ~~that qualifies for the conservation~~
26 ~~tax credit provided in G.S. 105-130.34 and G.S. 105-151.12. easement.~~ The exception provided
27 in this subsection applies only to that part of the property that is subject to the easement."

28 **SECTION 2.6.(c)** G.S. 105-309(d) reads as rewritten:

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

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

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

39 **SECTION 2.6.(d)** G.S. 105-320(a)(16) is repealed.

40 **SECTION 2.6.(e)** G.S. 110-130.1(a) reads as rewritten:

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

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

9 **SECTION 2.6.(f)** G.S. 113-77.9(d) reads as rewritten:

10 "(d) Acquisition. – The Department of Administration may, pursuant to G.S. 143-341,
11 acquire by purchase, gift, or devise all lands selected by the Trustees for acquisition pursuant to
12 this Article. Title to any land acquired pursuant to this Article shall be vested in the State. A
13 State agency with management responsibility for land acquired pursuant to this Article may
14 enter into a management agreement or lease with a county, city, town, or private nonprofit
15 organization ~~qualified under G.S. 105-151.12 and G.S. 105-130.34 and~~ certified under section
16 501(c)(3) of the Internal Revenue Code to aid in managing the land. A management agreement
17 or lease shall be executed by the Department of Administration pursuant to G.S. 143-341."

18 **SECTION 2.6.(g)** G.S. 113A-231 reads as rewritten:

19 "**§ 113A-231. Program to accomplish conservation purposes.**

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

28 **SECTION 2.6.(h)** G.S. 113A-232 reads as rewritten:

29 "**§ 113A-232. Conservation Grant Fund.**

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

38 (b) Fund Sources. – The Conservation Grant Fund shall consist of any monies
39 appropriated to it by the General Assembly and any monies received from public or private
40 sources. Unexpended monies in the Fund that were appropriated from the General Fund by the
41 General Assembly shall revert at the end of the fiscal year unless the General Assembly
42 otherwise provides. Unexpended monies in the Fund from other sources shall not revert and
43 shall remain available for expenditure in accordance with this Article.

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

- 47 (1) ~~possess~~ Possess or have a high potential to possess ecological ~~value, must be~~
48 value.
- 49 (2) Be reasonably restorable, and must qualify for tax credits under
50 G.S. 105-130.34 or G.S. 105-151.12. restorable.
- 51 (3) Be useful for one or more of the following purposes:

- 1 a. Public beach access or use.
- 2 b. Public access to public waters or trails.
- 3 c. Fish and wildlife conservation.
- 4 d. Forestland or farmland conservation.
- 5 e. Watershed protection.
- 6 f. Conservation of natural areas as that term is defined in
- 7 G.S. 113A-164.3(3).
- 8 g. Conservation of predominantly natural parkland.

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

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

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

- 24 (1) The administrative costs of the Department in administering the Fund.
- 25 (2) Conservation grants made in accordance with this Article.
- 26 (3) To establish an endowment account, the interest from which will be used for
- 27 a purpose described in G.S. 113A-233(a)."

28 **SECTION 2.6.(i)** G.S. 113A-233 reads as rewritten:

29 "**§ 113A-233. Uses of a grant from the Conservation Grant Fund.**

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

- 32 (1) Reimbursement for total or partial transaction costs for a donation of real
 33 property or an interest in real property from an individual or corporation
 34 satisfying either of the following:
 35 a. Insufficient financial ability to pay all costs or insufficient taxable
 36 income to allow these costs to be included in the donated value.
 37 b. Insufficient tax burdens to allow these costs to be offset by ~~the value~~
 38 ~~of tax credits under G.S. 105-130.34 or G.S. 105-151.12 or by~~
 39 ~~charitable deductions.~~
- 40 (2) Management support, including initial baseline inventory and planning.
- 41 (3) Monitoring compliance with conservation easements, the related use of
 42 riparian buffers, natural areas, and greenways, and the presence of ecological
 43 integrity.
- 44 (4) Education on conservation, including information materials intended for
 45 landowners and education for staff and volunteers.
- 46 (5) Stewardship of land.
- 47 (6) Transaction costs for recipients, including legal expenses, closing and title
 48 costs, and unusual direct costs, such as overnight travel.
- 49 (7) Administrative costs for short-term growth or for building capacity.

50 (b) Prohibition. – The Fund shall not be used to pay the purchase price of real property
 51 or an interest in real property."

1 **SECTION 2.6.(j)** G.S. 113A-256(g) is repealed.

2 **SECTION 2.6.(k)** This section becomes effective January 1, 2012.

3
4 **PART III. SALES AND USE TAX CHANGES**

5
6 **3.1 SPECIFIC FINDINGS AND PURPOSE**

7 **SECTION 3.1.(a)** The General Assembly of North Carolina finds the following:

- 8 (1) Historically, North Carolina's retail sales and use tax has been one of the
9 twin pillars of the State's revenue system and has provided a stable revenue
10 source responsive to growth in the State's economic base. In recent years,
11 however, the sales and use tax has tended to show increasing volatility, both
12 in strong and in weak economic periods.
- 13 (2) Adverse changes in the performance of the sales and use tax are attributable
14 in large part to the evolution of the State's economy away from
15 predominantly a goods-based, manufacturing economy to a predominantly
16 services-based economy. North Carolina taxes relatively few service
17 transactions compared with other states that have a sales and use tax.
- 18 (3) North Carolina's sales and use tax base is heavily dependent on the sale of
19 goods in traditional "brick and mortar" retail outlets.
- 20 (4) Over the decades, countless exemptions, exclusions, special rates, and
21 discounts have been created in the sales and use tax statutes, further eroding
22 the sales tax base and increasing the administrative complexity of the tax.
- 23 (5) North Carolina's sales and use tax base does not distinguish between taxation
24 of inputs and intermediate transactions, on the one hand, and sales for final
25 use or consumption, on the other hand. The imposition of the tax on many
26 business inputs and intermediary sales leads to undesirable compounding or
27 pyramiding of the tax throughout the chain of transactions. A revised sales
28 and use tax system should seek to reduce as much as possible this "tax upon
29 tax" effect of the current system.
- 30 (6) In consequence of the findings above, North Carolina's sales and use tax rate
31 has been increased on multiple occasions in recent years in order to maintain
32 the same levels of revenue that were historically generated in past decades.
- 33 (7) North Carolina's current high sales and use tax rate is unnecessary and
34 counterproductive.

35 **SECTION 3.1.(b)** It is the intent of this Part to promote economic development by
36 establishing a broader sales and use tax base and lowering the State general sales tax rate. To
37 this end, this Part does the following:

- 38 (1) Lowers the State general sales tax rate from four and three-fourths percent
39 (4.75%) to four percent (4%), effective October 1, 2013, and to three and
40 one-half percent (3.5%), effective October 1, 2014, thereby making the rate
41 more competitive with other states and reducing the regressive effect of the
42 tax.
- 43 (2) Eliminates five separate tax rates, thereby reducing the compliance burden
44 of the tax and simplifying its administration.
- 45 (3) Expands the sales and use tax base in the following ways, thereby enabling
46 the lowering of the tax rate and conforming the tax to the modern economy:
- 47 a. Including in the tax base items commonly taxed in other states.
- 48 b. Including in the tax base amusements currently subject to the
49 privilege license tax as well as other entertainment.
- 50 c. Eliminating special interest exemptions.

51 **SECTION 3.1.(c)** This section is effective when it becomes law.

1
2 **3.2 LOWER STATE GENERAL RATE AND ELIMINATE SEPARATE**
3 **RATES**

4 **SECTION 3.2.(a)** G.S. 105-164.4 reads as rewritten:

5 "**§ 105-164.4. ~~Tax imposed on retailers.~~ Privilege tax imposed on retailer at various rates.**

6 (a) Tax Imposed. – A privilege tax is imposed on a retailer at the following percentage
7 rates of the retailer's net taxable sales of tangible personal property, digital property, and
8 services. The general rate of tax is four percent (4%). The general rate applies to a taxable item
9 unless the item is subject to tax at the combined rate of tax or to a rate of tax that differs from
10 both the general rate and the combined rate. Subsection (b) of this section lists the items that
11 are subject to the general rate. An item taxable under subsection (b) of this section is also
12 subject to local sales and use tax. Subsection (c) of this section lists the items that are subject to
13 the combined rate. Subsection (d) of this section lists the items that are subject to the vehicle
14 rate.

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

17 (1) Tangible personal property. – Tangible personal property that is not subject
18 to tax under another subsection of this section. If tangible personal property
19 that is leased or rented is subject to a different rate under another subsection
20 of this section, then the rate and the maximum tax, if any, set in the other
21 subsection applies to the lease or rental of the property. A person who leases
22 or rents property must collect the tax imposed by this section on the separate
23 retail sale of the property.

24 (2) Reserved.

25 (3) Accommodations. – The rental of an accommodation. These rentals are
26 taxed in accordance with G.S. 105-164.4E.

27 (4) Prepaid telephone service. – The sale or recharge of prepaid telephone
28 calling service. The tax applies regardless of whether tangible personal
29 property, such as a card or a telephone, is transferred. The tax applies to a
30 service that is sold in conjunction with prepaid wireless calling service.
31 Prepaid telephone calling service is taxable at the point of sale instead of at
32 the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid
33 telephone calling service taxed under this subdivision is not subject to tax as
34 a telecommunications service.

35 (5) Satellite radio. – Satellite digital auto radio service. For services received by
36 a mobile or portable station, the service is sourced to the subscriber's
37 business or home address.

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

46 a. An audio work.

47 b. An audiovisual work.

48 c. A book, a magazine, a newspaper, a newsletter, a report, or another
49 publication.

50 d. A photograph or a greeting card.

- 1 (c) Combined Rate. – The combined rate of tax applies to a retailer's net taxable sales of
2 the following:
- 3 (1) Telecommunications. – Providing telecommunications service and ancillary
4 service. These services are taxed in accordance with G.S. 105-164.4C.
- 5 (2) Video programming. – Providing video programming to a subscriber in this
6 State.
- 7 (3) Liquor. – Spirituous liquor other than mixed beverages. As used in this
8 subdivision, the terms "spirituous liquor" and "mixed beverage" have the
9 meanings provided in G.S. 18B-101.
- 10 (d) Vehicle Rate. – The rate of tax imposed on a motor vehicle under G.S. 105-187.3
11 applies to a retailer's net taxable sales of an aircraft or a boat, including all accessories attached
12 to the item when it is delivered to the purchaser. The maximum tax is one thousand five
13 hundred dollars (\$1,500) per article.
- 14 (e) Manufactured and Modular Home. – The sale of a manufactured home or a modular
15 home is treated as if it were the sale of real property.
- 16 ~~(a) A privilege tax is imposed on a retailer at the following percentage rates of the~~
17 ~~retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four and~~
18 ~~three quarters percent (4.75%).~~
- 19 ~~(1) The general rate of tax applies to the sales price of each item or article of~~
20 ~~tangible personal property that is sold at retail and is not subject to tax under~~
21 ~~another subdivision in this section.~~
- 22 ~~(1a) The rate of two percent (2%) applies to the sales price of each manufactured~~
23 ~~home sold at retail, including all accessories attached to the manufactured~~
24 ~~home when it is delivered to the purchaser. The maximum tax is three~~
25 ~~hundred dollars (\$300.00) per article. Each section of a manufactured home~~
26 ~~that is transported separately to the site where it is to be erected is a separate~~
27 ~~article.~~
- 28 ~~(1b) The rate of three percent (3%) applies to the sales price of each aircraft or~~
29 ~~boat sold at retail, including all accessories attached to the item when it is~~
30 ~~delivered to the purchaser. The maximum tax is one thousand five hundred~~
31 ~~dollars (\$1,500) per article.~~
- 32 ~~(1c), (1d) and (1e) Repealed by Session Laws 2005 276, s. 33.4(b), effective~~
33 ~~January 1, 2006.~~
- 34 ~~(1f) The rate of two and eighty three hundredths percent (2.83%) applies to the~~
35 ~~sales price of electricity that is measured by a separate meter or another~~
36 ~~separate device and sold to a commercial laundry or to a pressing and~~
37 ~~dry cleaning establishment for use in machinery used in the direct~~
38 ~~performance of the laundering or the pressing and cleaning service.~~
- 39 ~~a. Repealed by Session Laws 2007 397, s. 10(b), effective October 1,~~
40 ~~2007, and applicable to sales occurring on or after that date.~~
- 41 ~~b. Repealed by Session Laws 2006 66, s. 24.19(a), effective July 1,~~
42 ~~2007, and applicable to sales made on or after that date.~~
- 43 ~~c. Repealed by Session Laws 2007 397, s. 10(b), effective October 1,~~
44 ~~2007, and applicable to sales occurring on or after that date.~~
- 45 ~~(1g) Repealed by Session Laws 2004 110, s. 6.1, effective October 1, 2004, and~~
46 ~~applicable to sales of electricity made on or after that date.~~
- 47 ~~(1h) Expired pursuant to Session Laws 2004 110, s. 6.4, effective for sales made~~
48 ~~on or after October 1, 2007.~~
- 49 ~~(1i) Repealed by Session Laws 2007 397, s. 10(a), effective October 1, 2007,~~
50 ~~and applicable to sales occurring on or after that date.~~

- 1 ~~(1j) Repealed by Session Laws 2007-397, s. 10(f), effective July 1, 2010, and~~
2 ~~applicable to sales occurring on or after that date.~~
- 3 ~~a. Sales of electricity to manufacturing industries and manufacturing~~
4 ~~plants for use in connection with the operation of the industries and~~
5 ~~plants.~~
- 6 ~~b. Sales of electricity to farmers to be used by them for any farming~~
7 ~~purposes other than preparing food, heating dwellings, and other~~
8 ~~household purposes.~~
- 9 ~~(2) The applicable percentage rate applies to the gross receipts derived from the~~
10 ~~lease or rental of tangible personal property by a person who is engaged in~~
11 ~~the business of leasing or renting tangible personal property, or is a retailer~~
12 ~~and leases or rents property of the type sold by the retailer. The applicable~~
13 ~~percentage rate is the rate and the maximum tax, if any, that applies to a sale~~
14 ~~of the property that is leased or rented. A person who leases or rents property~~
15 ~~shall also collect the tax imposed by this section on the separate retail sale of~~
16 ~~the property.~~
- 17 ~~(3) A tax at the general rate applies to the gross receipts derived from the rental~~
18 ~~of an accommodation. The tax does not apply to a private residence or~~
19 ~~cottage that is rented for fewer than 15 days in a calendar year or to an~~
20 ~~accommodation rented to the same person for a period of 90 or more~~
21 ~~continuous days.~~
- 22 ~~Gross receipts derived from the rental of an accommodation include the~~
23 ~~sales price of the rental of the accommodation. The sales price of the rental~~
24 ~~of an accommodation is determined as if the rental were a rental of tangible~~
25 ~~personal property. The sales price of the rental of an accommodation~~
26 ~~marketed by a facilitator includes charges designated as facilitation fees and~~
27 ~~any other charges necessary to complete the rental.~~
- 28 ~~A person who provides an accommodation that is offered for rent is~~
29 ~~considered a retailer under this Article. A facilitator must report to the~~
30 ~~retailer with whom it has a contract the sales price a consumer pays to the~~
31 ~~facilitator for an accommodation rental marketed by the facilitator. A retailer~~
32 ~~must notify a facilitator when an accommodation rental marketed by the~~
33 ~~facilitator is completed and, within three business days of receiving the~~
34 ~~notice, the facilitator must send the retailer the portion of the sales price the~~
35 ~~facilitator owes the retailer and the tax due on the sales price. A facilitator~~
36 ~~that does not send the retailer the tax due on the sales price is liable for the~~
37 ~~amount of tax the facilitator fails to send. A facilitator is not liable for tax~~
38 ~~sent to a retailer but not remitted by the retailer to the Secretary. Tax~~
39 ~~payments received by a retailer from a facilitator are held in trust by the~~
40 ~~retailer for remittance to the Secretary. A retailer that receives a tax payment~~
41 ~~from a facilitator must remit the amount received to the Secretary. A retailer~~
42 ~~is not liable for tax due but not received from a facilitator. The requirements~~
43 ~~imposed by this subdivision on a retailer and a facilitator are considered~~
44 ~~terms of the contract between the retailer and the facilitator.~~
- 45 ~~A person who, by written contract, agrees to be the rental agent for the~~
46 ~~provider of an accommodation is considered a retailer under this Article and~~
47 ~~is liable for the tax imposed by this subdivision. The liability of a rental~~
48 ~~agent for the tax imposed by this subdivision relieves the provider of the~~
49 ~~accommodation from liability. A rental agent includes a real estate broker, as~~
50 ~~defined in G.S. 93A-2.~~
- 51 ~~The following definitions apply in this subdivision:~~

- 1 a. Accommodation.— A hotel room, a motel room, a residence, a
2 cottage, or a similar lodging facility for occupancy by an individual.
- 3 b. Facilitator.— A person who is not a rental agent and who contracts
4 with a provider of an accommodation to market the accommodation
5 and to accept payment from the consumer for the accommodation.
- 6 (4) Every person engaged in the business of operating a dry cleaning, pressing,
7 or hat blocking establishment, a laundry, or any similar business, engaged in
8 the business of renting clean linen or towels or wearing apparel, or any
9 similar business, or engaged in the business of soliciting cleaning, pressing,
10 hat blocking, laundering or linen rental business for any of these businesses,
11 is considered a retailer under this Article. A tax at the general rate of tax is
12 levied on the gross receipts derived by these retailers from services rendered
13 in engaging in any of the occupations or businesses named in this
14 subdivision. The tax imposed by this subdivision does not apply to receipts
15 derived from coin, token, or card operated washing machines, extractors,
16 and dryers. The tax imposed by this subdivision does not apply to gross
17 receipts derived from services performed for resale by a retailer that pays the
18 tax on the total gross receipts derived from the services.
- 19 (4a) The rate of three percent (3%) applies to the gross receipts derived from
20 sales of electricity, other than sales of electricity subject to tax under another
21 subdivision in this section. A person who sells electricity is considered a
22 retailer under this Article.
- 23 (4b) A person who sells tangible personal property at a specialty market, other
24 than the person's own household personal property, is considered a retailer
25 under this Article. A tax at the general rate of tax is levied on the sales price
26 of each article sold by the retailer at the specialty market. The term
27 "specialty market" has the same meaning as defined in G.S. 66-250.
- 28 (4c) The combined general rate applies to the gross receipts derived from
29 providing telecommunications service and ancillary service. A person who
30 provides telecommunications service or ancillary service is considered a
31 retailer under this Article. These services are taxed in accordance with
32 G.S. 105-164.4C.
- 33 (4d) The sale or recharge of prepaid telephone calling service is taxable at the
34 general rate of tax. The tax applies regardless of whether tangible personal
35 property, such as a card or a telephone, is transferred. The tax applies to a
36 service that is sold in conjunction with prepaid wireless calling service.
37 Prepaid telephone calling service is taxable at the point of sale instead of at
38 the point of use and is sourced in accordance with G.S. 105-164.4B. Prepaid
39 telephone calling service taxed under this subdivision is not subject to tax as
40 a telecommunications service.
- 41 (5) Repealed by Session Laws 1998-212, s. 29A.1(a), effective May 1, 1999.
- 42 (6) The combined general rate applies to the gross receipts derived from
43 providing video programming to a subscriber in this State. A cable service
44 provider, a direct to home satellite service provider, and any other person
45 engaged in the business of providing video programming is considered a
46 retailer under this Article.
- 47 (6a) The general rate applies to the gross receipts derived from providing satellite
48 digital audio radio service. For services received by a mobile or portable
49 station, the service is sourced to the subscriber's business or home address. A
50 person engaged in the business of providing satellite digital audio radio
51 service is a retailer under this Article.

1 ~~(6b) The general rate applies to the digital property that is listed in this~~
2 ~~subdivision, is delivered or accessed electronically, is not considered~~
3 ~~tangible personal property, and would be taxable under this Article if sold in~~
4 ~~a tangible medium. The tax applies regardless of whether the purchaser of~~
5 ~~the item has a right to use it permanently or to use it without making~~
6 ~~continued payments. The tax does not apply to a service that is taxed under~~
7 ~~another subdivision of this subsection or to an information service. The~~
8 ~~following property is subject to tax under this subdivision:~~

9 ~~a. An audio work.~~

10 ~~b. An audiovisual work.~~

11 ~~c. A book, a magazine, a newspaper, a newsletter, a report, or another~~
12 ~~publication.~~

13 ~~d. A photograph or a greeting card.~~

14 ~~(7) The combined general rate applies to the sales price of spirituous liquor~~
15 ~~other than mixed beverages. As used in this subdivision, the terms~~
16 ~~"spirituous liquor" and "mixed beverage" have the meanings provided in~~
17 ~~G.S. 18B-101.~~

18 ~~(8) The rate of two and one half percent (2.5%) applies to the sales price of each~~
19 ~~modular home sold at retail, including all accessories attached to the~~
20 ~~modular home when it is delivered to the purchaser. The sale of a modular~~
21 ~~home to a modular homebuilder is considered a retail sale. A person who~~
22 ~~sells a modular home at retail is allowed a credit against the tax imposed by~~
23 ~~this subdivision for sales or use tax paid to another state on tangible personal~~
24 ~~property incorporated in the modular home. The retail sale of a modular~~
25 ~~home occurs when a modular home manufacturer sells a modular home to a~~
26 ~~modular homebuilder or directly to the end-user of the modular home.~~

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

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

40 **SECTION 3.2.(b)** G.S. 105-164.4(a), as amended by this act, reads as rewritten:

41 "(a) Tax Imposed. – A privilege tax is imposed on a retailer at the following percentage
42 rates of the retailer's net taxable sales of tangible personal property, digital property, and
43 services. The general rate of tax is ~~four percent (4%)~~ three and one-half percent (3.5%). The
44 general rate applies to a taxable item unless the item is subject to tax at the combined rate of tax
45 or to a rate of tax that differs from both the general rate and the combined rate. Subsection (b)
46 of this section lists the items that are subject to the general rate. An item taxable under
47 subsection (b) of this section is also subject to local sales and use tax. Subsection (c) of this
48 section lists the items that are subject to the combined rate. Subsection (d) of this section lists
49 the items that are subject to the vehicle rate."

50 **SECTION 3.2.(c)** Article 5 of Chapter 105 of the General Statutes is amended by
51 adding the following new section to read:

"§ 105-164.4E. Accommodation rentals.

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

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

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

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

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

(c) Facilitator Transactions. – A facilitator must report to the retailer with whom it has a contract the sales price a consumer pays to the facilitator for an accommodation rental marketed by the facilitator. A retailer must notify a facilitator when an accommodation rental marketed by the facilitator is completed and, within three business days of receiving the notice, the facilitator must send the retailer the portion of the sales price the facilitator owes the retailer and the tax due on the sales price. A facilitator that does not send the retailer the tax due on the sales price 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 section on a retailer and a facilitator are considered terms of the contract between the retailer and the facilitator.

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

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

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

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

SECTION 3.2.(d) G.S. 105-164.13(10) 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:

...

(10) Sales of the following to commercial laundries or to pressing and dry cleaning establishments:

a. Articles or materials used for the identification of garments being laundered or dry cleaned, wrapping paper, bags, hangers, starch, soaps, detergents, cleaning fluids and other compounds or chemicals applied directly to the garments in the direct performance of the laundering or the pressing and cleaning service.

- 1 b. Laundry and dry-cleaning machinery, parts and accessories attached
2 to the machinery, and lubricants applied to the machinery.
3 c. ~~Fuel, other than electricity, Fuel~~ used in the direct performance of the
4 laundrying or the pressing and cleaning service. Electricity qualifies
5 for this exemption only if it is measured by a separate meter or
6 another separate device."

7 **SECTION 3.2.(e)** G.S. 105-164.44G is repealed.

8 **SECTION 3.2.(f)** G.S. 105-467(a) reads as rewritten:

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

- 13 (1) A retailer's net taxable sales and gross receipts that are ~~The sales price of~~
14 ~~tangible personal property~~ subject to the general rate of sales tax imposed by
15 the State under ~~G.S. 105-164.4(a)(1) and (a)(4b).~~ G.S. 105-164.4, other than
16 sales of electricity.
17 (2) ~~The gross receipts derived from the lease or rental of tangible personal~~
18 ~~property when the lease or rental of the property is subject to the general rate~~
19 ~~of sales tax imposed by the State under G.S. 105-164.4(a)(2).~~
20 (3) ~~The gross receipts derived from the rental of any room or other~~
21 ~~accommodations subject to the general rate of sales tax imposed by the State~~
22 ~~under G.S. 105-164.4(a)(3).~~
23 (4) ~~The gross receipts derived from services rendered by laundries, dry cleaners,~~
24 ~~and other businesses subject to the general rate of sales tax imposed by the~~
25 ~~State under G.S. 105-164.4(a)(4).~~
26 (5) The sales price of food that is not otherwise exempt from tax pursuant to
27 G.S. 105-164.13 but is exempt from the State sales and use tax pursuant to
28 G.S. 105-164.13B.
29 (5a) The sales price of a bundled transaction that includes food subject to tax
30 under subdivision (5) of this subsection, if the price of the food exceeds ten
31 percent (10%) of the price of the bundle. A retailer must determine the price
32 of food in a bundled transaction in accordance with G.S. 105-164.4D.
33 (5b) The sales price of bread, rolls, and buns that are sold at a bakery thrift store
34 and are exempt from State tax under G.S. 105-164.13(27a).
35 (6) ~~The sales price of prepaid telephone calling service taxed as tangible~~
36 ~~personal property under G.S. 105-164.4(a)(4d).~~
37 (7) ~~The gross receipts derived from providing satellite digital audio radio service~~
38 ~~subject to the general rate of tax under G.S. 105-164.4(a)(6a)."~~

39 **SECTION 3.2.(g)** Subsection (b) of this section becomes effective October 1,
40 2014, and applies to sales occurring on or after that date. The remainder of this section becomes
41 effective October 1, 2013, and applies to sales occurring on or after that date.
42

43 **3.3 INCLUDE ITEMS COMMONLY TAXED IN OTHER STATES**

44 **SECTION 3.3.(a)** G.S. 105-164.3 reads as rewritten:

45 "**§ 105-164.3. Definitions.**

46 The following definitions apply in this Article:

47 ...

48 (1c) Alteration, repair, maintenance, cleaning, and installation services. – The
49 term includes the activities listed in this subdivision:

- 50 a. Altering tangible personal property by tailoring, monogramming,
51 engraving, or making similar changes to the property.

- 1 b. Repairing tangible personal property to restore it to proper working
- 2 order.
- 3 c. Maintaining tangible personal property to keep the property in
- 4 working order, to avoid breakdown, or to prevent unnecessary
- 5 repairs.
- 6 d. Cleaning tangible personal property.
- 7 e. Installing tangible personal property.
- 8 ...
- 9 (4a) Combined ~~general~~—rate. – The State's general rate of tax set in
- 10 G.S. 105-164.4(a) plus the sum of the rates of the local sales and use taxes
- 11 authorized by Subchapter VIII of this Chapter for every county in this State.
- 12 ...
- 13 (35) Retailer. – A person engaged in the business of any of the following:
- 14 a. Making sales at retail, offering to make sales at retail, or soliciting
- 15 sales at retail of tangible personal property, digital property, or
- 16 services for storage, use, or consumption in this State. When the
- 17 Secretary finds it necessary for the efficient administration of this
- 18 Article to regard any sales representatives, solicitors, representatives,
- 19 consignees, peddlers, or truckers as agents of the dealers,
- 20 distributors, consignors, supervisors, employers, or persons under
- 21 whom they operate or from whom they obtain the items sold by them
- 22 regardless of whether they are making sales on their own behalf or on
- 23 behalf of these dealers, distributors, consignors, supervisors,
- 24 employers, or persons, the Secretary may so regard them and may
- 25 regard the dealers, distributors, consignors, supervisors, employers,
- 26 or persons as "retailers" for the purpose of this Article. A person who
- 27 sells tangible personal property, other than the person's own
- 28 household personal property, at a specialty market as defined in
- 29 G.S. 66-250 is a retailer.
- 30 b. Delivering, erecting, installing, or applying tangible personal
- 31 property for use in this State, regardless of whether the property is
- 32 permanently affixed to real property or other tangible personal
- 33 property.
- 34 c. Making a remote sale, if one of the conditions listed in
- 35 G.S. 105-164.8(b) is met.
- 36 ...
- 37 (38b) Service contract. – A warranty agreement, a maintenance agreement, a repair
- 38 contract, or a similar agreement or contract by which the seller agrees to
- 39 maintain or repair tangible personal property."
- 40 **SECTION 3.3.(b)** G.S. 105-164.4(b), as amended by this act, is further amended
- 41 by adding the following new subdivisions to read:
- 42 "(b) General Rate. – The general rate of tax applies to a retailer's net taxable sales of the
- 43 following:
- 44 ...
- 45 (2) ~~Reserved.~~ Tangible personal property services. – Any of the following:
- 46 a. A service contract.
- 47 b. Alteration, repair, maintenance, cleaning, and installation services.
- 48 c. Rental or lease of a mini-warehouse, a safe deposit box, or other
- 49 secure self-storage space.
- 50 ...
- 51 (7) Property care and maintenance services. – Any of the following:

- a. Exterminating and controlling birds, mosquitoes, rodents, termites, and other insects and pests.
 - b. Providing any of the following landscaping services:
 - 1. Installing or maintaining a tree, shrub, plant, lawn, or garden, either indoors or outdoors, or providing other similar landscape care and maintenance services.
 - 2. Installing or maintaining a walkway, retaining wall, deck, fence, water feature, or other similar structure to enhance the landscape of an area.
 - c. Cleaning the interior or exterior of a building or other structure.
 - d. Cleaning an item, such as a carpet or gutter, that is attached to a structure.
 - e. Cleaning a driveway, a parking lot, a swimming pool, the grounds at a building or other structure, or another outdoor area.
- (8) Security services. – Any of the following:
- a. Guard or security patrol service.
 - b. Armored car service.
 - c. Remote monitoring of a security alarm system.
 - d. Locksmith service.
 - e. Telematic service that provides communication, tracking, and emergency response services to motor vehicle owners."

SECTION 3.3.(c) Part 2 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.12C. Tangible personal property installed by a person who provides a landscaping service.

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

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

SECTION 3.3.(d) 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:

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

1 ~~(49) Installation charges when the charges are separately stated.~~

2 ...

3 (60) Tangible personal property services described in G.S. 105-164.4(b)(2)
4 provided for an item that is exempt from tax under this Article, other than an
5 item exempt from tax under G.S. 105-164.13(32).

6 (61) A property maintenance service described in G.S. 105-164.4(a)(10) that is
7 provided for any of the following:

8 a. A newly constructed building or other structure.

9 b. A right-of-way or utility easement.

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

12 **SECTION 3.3.(e)** G.S. 105-237.1(a) reads as rewritten:

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

16 (1) There is a reasonable doubt as to the amount of the liability of the taxpayer
17 under the law and the facts.

18 (2) The taxpayer is insolvent and the Secretary probably could not otherwise
19 collect an amount equal to or in excess of the amount offered in
20 compromise. A taxpayer is considered insolvent only in one of the following
21 circumstances:

22 a. It is plain and indisputable that the taxpayer is clearly insolvent and
23 will remain so in the reasonable future.

24 b. The taxpayer has been determined to be insolvent in a judicial
25 proceeding.

26 (3) Collection of a greater amount than that offered in compromise is
27 improbable, and the funds or a substantial portion of the funds offered in the
28 settlement come from sources from which the Secretary could not otherwise
29 collect.

30 (4) A federal tax assessment arising out of the same facts has been compromised
31 with the federal government on the same or a similar basis as that proposed
32 to the State and the Secretary could probably not collect an amount equal to
33 or in excess of that offered in compromise.

34 (5) Collection of a greater amount than that offered in compromise would
35 produce an unjust result under the circumstances.

36 (6) The taxpayer is a retailer or a consumer under Article 5 of this Chapter, the
37 assessment is for sales or use tax the retailer failed to collect or the consumer
38 failed to pay on an item that first became taxable under that Article on or
39 after October 1, 2013, and the retailer or consumer made a good faith effort
40 to comply with the sales and use tax laws."

41 **SECTION 3.3.(f)** This section becomes effective October 1, 2013, and applies to
42 sales occurring on or after that date.

43

44 **3.4 INCLUDE AMUSEMENTS SUBJECT TO PRIVILEGE TAX AND**

45 **OTHER ENTERTAINMENT**

46 **SECTION 3.4.(a)** G.S. 105-37.1, 105-38.1, and 105-40 are repealed.

47 **SECTION 3.4.(b)** G.S. 105-164.4(b), as amended by this act, is further amended
48 by adding the following new subdivision to read:

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

51 ...

- 1 (9) Entertainment. – Admission charges to a recreational or entertainment
2 activity listed in this subdivision. Offering any of these listed activities is a
3 service. An admission charge includes a charge for a single ticket, a
4 multioccasion ticket, a seasonal pass, an annual pass, a cover charge, and a
5 charge for amenities. When an admission ticket is resold and the price of the
6 admission ticket is printed on the face of the ticket, the tax does not apply to
7 the face price. When an admission ticket is resold and the price of the
8 admission ticket is not printed on the face of the ticket, the tax applies to the
9 difference between the amount the reseller paid for the ticket and the amount
10 the reseller charges for the ticket. Admission charges to the following
11 recreational and entertainment activities are subject to tax:
12 a. A live performance or other live event of any kind.
13 b. A movie or other audiovisual work.
14 c. A museum, a cultural site, a garden, an amusement park, an exhibit, a
15 show, or other similar attraction or event."

16 **SECTION 3.4.(c)** G.S. 105-164.13, as amended by this act, is further amended by
17 adding the following new subdivision to read:

18 **"§ 105-164.13. Retail sales and use tax.**

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

- 22 ...
- 23 (63) Admission charges to any of the following recreational or entertainment
24 activities:
25 a. An event that is held at an elementary or secondary school and is
26 sponsored by the school.
27 b. A commercial agricultural fair that meets the requirements of
28 G.S. 106-520.1, as determined by the Commissioner of Agriculture.
29 c. A festival or other recreational or entertainment activity that lasts no
30 more than seven consecutive days and is sponsored by a nonprofit
31 entity that is exempt from tax under Article 4 of this Chapter and
32 uses the entire proceeds of the activity exclusively for the entity's
33 nonprofit purposes. This exemption applies to no more than two
34 activities sponsored by the entity during a calendar year."

35 **SECTION 3.4.(d)** The following statutes are repealed:

- 36 G.S. 106-507
37 G.S. 106-516
38 G.S. 106-517
39 G.S. 106-518
40 G.S. 106-519
41 G.S. 106-520
42 G.S. 140-10.1

43 **SECTION 3.4.(e)** This section becomes effective October 1, 2013. Subsection (a)
44 of this section applies to gross receipts received on or after October 1, 2013, from admissions
45 purchased on or after that date. Gross receipts received on or after October 1, 2013, from
46 admissions purchased before that date are taxable under G.S. 105-37.1 or G.S. 105-38.1, as
47 appropriate. Subsections (b) and (c) of this section apply to sales occurring on or after October
48 1, 2013.

49
50 **3.5 ELIMINATE SPECIAL INTEREST EXEMPTIONS**

51 **SECTION 3.5.(a)** G.S. 105-164.13(13c), (30), and (50) are repealed.

- 1 d. Fuel used to operate logging machinery.
2
3 ...
4 (5b) Sales to a telephone company regularly engaged in providing telephone
5 service to subscribers on a commercial basis of the following equipment that
6 is capital equipment:
7 a. ~~entral~~ Central office equipment, switchboard equipment.
8 b. Switchboard equipment, private equipment.
9 c. Private branch exchange equipment, terminal equipment.
10 d. Terminal equipment other than public pay telephone terminal
11 equipment, and parts and accessories attached to the equipment.
12 (5c) Sales to a radio or television company licensed by the Federal
13 Communications Commission of towers, towers and broadcasting
14 equipment, and parts and accessories attached to the equipment to a radio or
15 television company licensed by the Federal Communications
16 Commission equipment that is capital equipment.
17 (5d) Sales to a cable service provider of broadcasting equipment ~~and parts and~~
18 ~~accessories attached to the equipment to a cable service provider.~~ that is
19 capital equipment. For the purposes of this subdivision, "broadcasting
20 equipment" does not include cable.
21 (5e) Sales to a major recycling facility of the following for use in connection with
22 the facility:
23 a. Cranes, structural steel crane support systems, and foundations
24 related to the cranes and support systems.
25 b. Port and dock facilities.
26 c. Rail equipment.
27 d. Material handling equipment.
28 (5f) Sales of mill machinery that is capital equipment and is purchased by one of
29 the following:
30 a. A manufacturing industry or plant. A manufacturing industry or plant
31 does not include a delicatessen, café, cafeteria, restaurant, or another
32 similar retailer that is principally engaged in the retail sale of foods
33 prepared by it for consumption on or off its premises.
34 b. A contractor or subcontractor for use in the performance of a contract
35 with a manufacturing industry or plant.
36 c. A subcontractor for use in the performance of a contract with a
37 general contractor that has a contract with a manufacturing industry
38 or plant.
39 (5g) Sales of capital equipment that is purchased by one of the following and
40 would be considered mill machinery if purchased by a manufacturing
41 industry or plant and used in manufacturing tangible personal property or in
42 the research and development of tangible personal property manufactured by
43 the industry or plant:
44 a. A research and development company in the physical, engineering,
45 and life sciences that is included in industry group 54171 of NAICS
46 for use by the company in the research and development of tangible
47 personal property.
48 b. A software publishing company that is included in industry group
49 5112 of NAICS for use by the company in the research and
development of tangible personal property.

- 1 c. An industrial machinery refurbishing company that is included in
 2 industry group 811310 of NAICS for use by the company in
 3 repairing or refurbishing tangible personal property.
 4 (5h) Machinery and equipment exempt from sales and use tax under
 5 G.S. 105-164.13E.
 6 ...
 7 (10) Sales of the following to commercial laundries or to pressing and dry
 8 cleaning establishments:
 9 a. Articles or materials used for the identification of garments being
 10 laundered or dry cleaned, wrapping paper, bags, hangers, starch,
 11 soaps, detergents, cleaning fluids and other compounds or chemicals
 12 applied directly to the garments in the direct performance of the
 13 laundering or the pressing and cleaning service.
 14 b. ~~Laundry and dry-cleaning machinery, parts and accessories attached~~
 15 ~~to the machinery, and lubricants applied to the machinery.~~machinery
 16 that is capital equipment.
 17 c. Fuel used in the direct performance of the laundering or the pressing
 18 and cleaning service. Electricity qualifies for this exemption only if it
 19 is measured by a separate meter or another separate device.

20 "

21 **SECTION 3.6.(d)** Part 3 of Article 5 of Chapter 105 of the General Statutes is
 22 amended by adding a new section to read:

23 **"§ 105-164.13E. Exemption for sales and use taxes paid by a datacenter.**

- 24 (a) Definitions. – The following definitions apply in this section:
 25 (1) Concurrently maintainable. – Capable of having any capacity component or
 26 distribution element serviced or repaired on a planned basis without
 27 interrupting or impeding the performance of the computer equipment.
 28 (2) Multiple distribution paths. – A series of distribution paths configured to
 29 ensure that failure on one distribution path does not interrupt or impede other
 30 distribution paths.
 31 (3) Redundant capacity components. – Components beyond those required to
 32 support the computer equipment.
 33 (b) Exemption. – Machinery and equipment purchased by a datacenter that meets the
 34 conditions of subsection (b) of this section is exempt from sales and use tax if the machinery
 35 and equipment meets all of the following requirements:
 36 (1) It is located and used at the datacenter.
 37 (2) It is capitalized for tax purposes under the Code.
 38 (3) It is used for one of the following purposes:
 39 a. For the provision of datacenter services, including equipment cooling
 40 systems for managing the performance of the datacenter property,
 41 hardware and software for distributed and mainframe computers and
 42 servers, data storage devices, network connectivity equipment, and
 43 peripheral components and systems.
 44 b. For the generation, transformation, transmission, distribution, or
 45 management of electricity, including exterior substations and other
 46 business personal property used for these purposes.
 47 (c) Datacenter. – To be eligible for the sales and use tax exemption provided by this
 48 section, a datacenter must be a facility that meets all of the following conditions:
 49 (1) It provides infrastructure for hosting or data processing services.
 50 (2) Its power and cooling systems are created and maintained to be concurrently
 51 maintainable and include redundant capacity components and multiple

1 distribution paths serving the computer equipment at the facility. The facility
2 must have multiple distribution paths serving the computer equipment;
3 however, a single distribution path may serve the computer equipment at any
4 one time.

5 (3) It satisfies the wage standard and health insurance requirements of
6 G.S. 143B-437.08A.

7 (4) It has received a written determination from the Secretary of Commerce that
8 it meets one of the following location requirements and that the required
9 minimum amount in private funds has been or will be invested in
10 improvements to real property or installed datacenter machinery and
11 equipment, or a combination thereof, within five years of the date on which
12 the first qualifying improvement is made, regardless of any subsequent
13 change in county development tier status.

14 a. It is located in a development tier one area at the time of application
15 for the written determination. For this location, the required
16 minimum amount is one hundred fifty million dollars
17 (\$150,000,000).

18 b. It is not located in a development tier one area at the time of
19 application for the written determination. For this location, the
20 required minimum amount is two hundred twenty-five million dollars
21 (\$225,000,000).

22 c. It is not located in a development tier one area at the time of
23 application for the written determination, it is linked to a datacenter
24 that qualifies under sub-subdivision b. of this subdivision through a
25 fiber-optic connection or a similar connection, it is owned by or
26 under common control with the owner of the datacenter to which it is
27 linked, and it is placed in service within five years of the datacenter
28 to which it is linked. For this location, the required minimum amount
29 is seventy-five million dollars (\$75,000,000).

30 (d) Contractors. – Machinery and equipment purchased by the following contractors
31 and subcontractors are exempt from sales and use tax:

32 (1) A contractor that purchases the machinery and equipment for use in the
33 performance of a contract with the owner of a datacenter that qualifies under
34 this section.

35 (2) A subcontractor that purchases the machinery and equipment for use in the
36 performance of a contract with a general contractor that has a contract with
37 the owner of a datacenter that qualifies under this section.

38 (e) Forfeiture. – If the level of investment required under subsection (b) of this section
39 is not timely made, then the exemption provided under this section is forfeited. If the required
40 level of investment is timely made but any eligible machinery and equipment is not located and
41 used at the datacenter, then the exemption provided for that machinery and equipment under
42 this section is forfeited. A taxpayer that forfeits an exemption under this subsection is liable for
43 all past sales and use taxes avoided as a result of the forfeiture, plus interest at the rate
44 established under G.S. 105-241.1(i). If the forfeiture is triggered due to the lack of a timely
45 investment required by this section, then interest is computed from the date the sales or use tax
46 would otherwise have been due. For all other forfeitures, interest is computed from the time as
47 of which the machinery or equipment was put to a disqualifying use. A credit is allowed against
48 the sales or use tax owed as a result of the forfeiture provisions of this subsection for privilege
49 taxes paid under Article 5F of this Chapter. For purposes of applying this credit, the fact that
50 payment of the privilege tax occurred in a period outside the statute of limitations provided
51 under G.S. 105-266 is not considered. Interest does not apply to the amount of taxes offset by

1 this credit. The past taxes and interest are due 30 days after the date of forfeiture. A taxpayer
2 that fails to pay the past taxes and interest by the due date is subject to the provisions of
3 G.S. 105-236.

4 (f) Sunset. – This section expires for sales occurring on or after July 1, 2015."

5 **SECTION 3.6.(e)** Article 5F of Chapter 105 of the General Statutes and
6 G.S. 105-164.13(5a) are repealed.

7 **SECTION 3.6.(f)** G.S. 105-449.106(c) reads as rewritten:

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

15 **SECTION 3.6.(g)** G.S. 105-449.107 reads as rewritten:

16 "**§ 105-449.107. Annual refunds for off-highway use and use by certain vehicles with**
17 **power attachments.**

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

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

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

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

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

8 **SECTION 3.6.(h)** This section becomes effective October 1, 2013, and applies to
9 sales occurring on or after that date. Subsections (f) and (g) of this section apply to a claim for
10 refund of taxes paid on motor fuel on or after October 1, 2013.

11 12 3.7 CONFORMING CHANGES

13 **SECTION 3.7.(a)** G.S. 105-164.9 is repealed.

14 **SECTION 3.7.(b)** G.S. 105-164.10 reads as rewritten:

15 "**§ 105-164.10. Retail bracket system.**

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

23 **SECTION 3.7.(c)** G.S. 105-164.44F(a) reads as rewritten:

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

29 (1) ~~Eighteen and seventy one hundredths percent (18.70%)~~ Twenty and
30 seven-tenths percent (20.7%) minus two million six hundred twenty
31 thousand nine hundred forty-eight dollars (\$2,620,948), must be distributed
32 to cities in accordance with this section. The deduction is one-fourth of the
33 annual amount by which the distribution to cities of the gross receipts
34 franchise tax on telephone companies, imposed by former G.S. 105-20, was
35 required to be reduced beginning in fiscal year 1995-96 as a result of the
36 "freeze deduction."

37 (2) ~~Seven and seven-tenths percent (7.7%)~~ Eight and five-tenths percent (8.5%)
38 must be distributed to counties and cities as provided in G.S. 105-164.44I."

39 **SECTION 3.7.(d)** G.S. 105-164.44I(a) reads as rewritten:

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

48 (1) The amount specified in G.S. 105-164.44F(a)(2).

49 (2) ~~Twenty three and six tenths percent (23.6%)~~ Twenty-six and one-tenths
50 percent (26.1%) of the net proceeds of the taxes collected during the quarter
51 on video programming, other than on direct-to-home satellite service.

- 1 (3) ~~Thirty-seven and one-tenths percent (37.1%)~~ Forty-one and one-tenths
2 percent (41.1%) of the net proceeds of the taxes collected during the quarter
3 on direct-to-home satellite service."

4 **SECTION 3.7.(e)** G.S. 105-164.44F(a), as amended by this act, reads as rewritten:

5 "(a) Amount. – The Secretary must distribute part of the taxes imposed by
6 G.S. 105-164.4 on telecommunications service and ancillary service. The Secretary must make
7 the distribution within 75 days after the end of each calendar quarter. The amount the Secretary
8 must distribute is the following percentages of the net proceeds of the taxes collected during the
9 quarter:

- 10 (1) ~~Twenty and seven-tenths percent (20.7%)~~ Twenty-four and four-tenths
11 percent (24.4%) minus two million six hundred twenty thousand nine
12 hundred forty-eight dollars (\$2,620,948), must be distributed to cities in
13 accordance with this section. The deduction is one-fourth of the annual
14 amount by which the distribution to cities of the gross receipts franchise tax
15 on telephone companies, imposed by former G.S. 105-20, was required to be
16 reduced beginning in fiscal year 1995-96 as a result of the "freeze
17 deduction."
18 (2) ~~Eight and five-tenths percent (8.5%)~~ Ten percent (10%) must be distributed
19 to counties and cities as provided in G.S. 105-164.44I."

20 **SECTION 3.7.(f)** G.S. 105-164.44I(a), as amended by this act, reads as rewritten:

21 "(a) Distribution. – The Secretary must distribute to the counties and cities part of the
22 taxes imposed by G.S. 105-164.4 on telecommunications service and video programming
23 service. The Secretary must make the distribution within 75 days after the end of each calendar
24 quarter. The amount the Secretary must distribute is the sum of the revenue listed in this
25 subsection. The Secretary must distribute two million dollars (\$2,000,000) of this amount in
26 accordance with subsection (b) of this section and the remainder in accordance with
27 subsections (c) and (d) of this section. The revenue to be distributed under this section consists
28 of the following:

- 29 (1) The amount specified in G.S. 105-164.44F(a)(2).
30 (2) ~~Twenty-six and one-tenths percent (26.1%)~~ Thirty and eight-tenths percent
31 (30.8%) of the net proceeds of the taxes collected during the quarter on
32 video programming, other than on direct-to-home satellite service.
33 (3) ~~Forty-one and one-tenths percent (41.1%)~~ Forty-eight and four-tenths
34 percent (48.4%) of the net proceeds of the of the net proceeds of the taxes
35 collected during the quarter on direct-to-home satellite service."

36 **SECTION 3.7.(g)** Subsections (c) and (d) of this section become effective October
37 1, 2013, and apply to distributions for months beginning on or after that date. Subsections (e)
38 and (f) of this section become effective October 1, 2014, and apply to distributions for months
39 beginning on or after that date. The remainder of this section is effective when it becomes law.

40 **PART IV. BUSINESS TAX CHANGES**

41 **4.1 SPECIFIC FINDINGS AND PURPOSE**

42 **SECTION 4.1.(a)** The General Assembly finds the following:

- 43 (1) North Carolina's corporate income tax has become an increasingly volatile
44 and unpredictable revenue source and no longer provides a stable revenue
45 base for the State's continuing General Fund needs.
46 (2) North Carolina's current corporate income and franchise tax are the products
47 of historical economic circumstances and business and legal conditions that
48 date back to the early years of the 20th century. The business and legal
49
50

1 environment today is dramatically different from the one that existed at the
2 time the State instituted these taxes.

- 3 (3) North Carolina's corporate franchise tax was originally imposed on corporate
4 entities in exchange for the privilege of conducting business in a form that
5 limited the liability of individual owners of the business, but many forms of
6 business entities enjoy that privilege today. Although these new forms of
7 legal entities confer the privilege of limited liability for their owners, they
8 are not subject to the corporate franchise tax. This difference in tax treatment
9 has led to inequitable treatment of taxpayers who are similarly situated and
10 may actually be competitors of one another.
- 11 (4) The development of new forms of limited liability business entities that are
12 not subject to the corporate income tax or the corporate franchise tax has
13 worsened the problem of differential treatment of taxpayers who are engaged
14 in similar enterprises, discriminating against those who choose to use or are
15 required by law to use the traditional corporate form of organization.
- 16 (5) The archaic structure of the State's tax treatment of different types of limited
17 liability entities has resulted in a series of ad hoc attempts to rectify the
18 disparities by the enactment of special filing fees, reporting fees, and other
19 charges assessed against the new forms of business entity, and that has
20 resulted in an increase in the number of different taxes and fees imposed on
21 businesses and additional complexity in tax administration.
- 22 (6) The globalization of many large-scale business enterprises and the evolution
23 of modern financial and accounting practices have made it increasingly
24 difficult to maintain fair, equitable, and reasonable rules concerning the
25 attribution of corporate income to North Carolina for income tax purposes,
26 leading to inequities among taxpayers that cannot be readily addressed due
27 to the territorial and constitutional limitations on North Carolina's tax code.
- 28 (7) The State's hodgepodge of State, county, and municipal privilege taxes
29 applicable to various businesses has become virtually unintelligible even to
30 experts in tax law and accounting. Proper administration of the privilege tax
31 laws requires knowledge of and access to statutes that were repealed many
32 years ago.
- 33 (8) The economy of the State would be significantly enhanced by reducing the
34 number of different taxes imposed on businesses and by rectifying the
35 competitive distortions that exist in the present system of business taxation.
36 These changes would also produce greater stability and predictability for the
37 State's revenue system.

38 **SECTION 4.1.(b)** It is the intent of this Part to promote economic development by
39 establishing a broader business tax base and lowering business tax rates. To this end, this Part
40 does the following:

- 41 (1) Phases out the corporate income tax over five years, thereby eliminating a
42 volatile source of revenue and making North Carolina more attractive as a
43 business location.
- 44 (2) Eliminates the franchise tax and substitutes a business privilege tax on all
45 forms of limited liability business entities, thereby eliminating inequities
46 among types of businesses.
- 47 (3) Eliminates various tax credits and deductions, thereby broadening the base
48 and enabling the reduction of the rate for all business taxpayers.
- 49 (4) Eliminates various report filing fees, thereby decreasing the regulatory costs
50 imposed on business.
51

1 **4.2 PHASE OUT CORPORATE INCOME TAX**

2 **SECTION 4.2.(a)** G.S. 105-130.3 reads as rewritten:

3 "**§ 105-130.3. Corporations.**

4 A tax is imposed on the State net income of every C Corporation doing business in this
5 State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage
6 of the taxpayer's State net income computed as follows:

7 Income Years Beginning	Tax
8 In 1997	7.5%
9 In 1998	7.25%
10 In 1999	7%
11 After 1999	6.9%
12 <u>In 2013</u>	<u>4%</u>
13 <u>In 2014</u>	<u>3%</u>
14 <u>In 2015</u>	<u>2%</u>
15 <u>In 2016</u>	<u>1%."</u>

16 **SECTION 4.2.(b)** Part 1 of Article 4 of Chapter 105 of the General Statutes is
17 repealed.

18 **SECTION 4.2.(c)** G.S. 105–130.5(a) is amended by adding a new subdivision to
19 read:

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

22 ...

23 (2a) That portion of a financial institution's interest expense that is allocable to
24 interest income exempt from taxation under this Part. The allocable portion
25 of the interest expense is the portion for which deduction would be
26 disallowed pursuant to section 265(b) of the Code if the interest were earned
27 on a tax-exempt obligation as defined in section 265(b) of the Code.

28 "

29 **SECTION 4.2.(d)** G.S. 105-130.7A reads as rewritten:

30 "**§ 105-130.7A. Royalty income and interest expense reporting ~~option-options~~.**

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

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

39 (1) Component member. – Defined in section 1563(b) of the Code.

40 (1a) Intangible property. – Copyrights, patents, and trademarks.

41 (1b) Interest expense. – An amount directly or indirectly allowed as a deduction
42 under section 163 of the Code.

43 (2) North Carolina royalty. – An amount charged that is for, related to, or in
44 connection with the use in this State of intangible property. The term
45 includes royalty and technical fees, licensing fees, and other similar charges.

46 (3) Own. – To own directly, indirectly, beneficially, or constructively. The
47 attribution rules of section 318 of the Code apply in determining ownership
48 under this section.

49 (4) Related entity. – Any of the following:

50 a. A stockholder who is an individual, or a member of the stockholder's
51 family enumerated in section 318 of the Code, if the stockholder and

- 1 the members of the stockholder's family own in the aggregate at least
2 eighty percent (80%) of the value of the taxpayer's outstanding stock.
- 3 b. A stockholder, or a stockholder's partnership, limited liability
4 company, estate, trust, or corporation, if the stockholder and the
5 stockholder's partnerships, limited liability companies, estates, trusts,
6 and corporations own in the aggregate at least fifty percent (50%) of
7 the value of the taxpayer's outstanding stock.
- 8 c. A corporation, or a party related to the corporation in a manner that
9 would require an attribution of stock from the corporation to the
10 party or from the party to the corporation under the attribution rules
11 of section 318 of the Code, if the taxpayer owns at least eighty
12 percent (80%) of the value of the corporation's outstanding stock.
- 13 (5) Related member. – A person that, with respect to the taxpayer during any
14 part of the taxable year, is one or more of the following:
- 15 a. A related entity.
- 16 b. A component member.
- 17 c. A person to or from whom there would be attribution of stock
18 ownership in accordance with section 1563(e) of the Code if the
19 phrase "5 percent or more" were replaced by "twenty percent (20%)
20 or more" each place it appears in that section.
- 21 (6) Royalty payment. – Either of the following:
- 22 a. Expenses, losses, and costs paid, accrued, or incurred for North
23 Carolina royalties, to the extent the amounts are allowed as
24 deductions or costs in determining taxable income before operating
25 loss deduction and special deductions for the taxable year under the
26 Code.
- 27 b. Amounts directly or indirectly allowed as deductions under section
28 163 of the Code, to the extent the amounts are paid, accrued, or
29 incurred for a time price differential charged for the late payment of
30 any expenses, losses, or costs described in this subdivision.
- 31 (7) Trademark. – A trademark, trade name, service mark, or other similar type
32 of intangible asset.
- 33 (8) Use. – Use of intangible property includes direct or indirect maintenance,
34 management, ownership, sale, exchange, or disposition of the intangible
35 property.
- 36 (c) Election. – For the purpose of computing its State net income, a taxpayer must add
37 royalty payments and interest expenses made to, or in connection with transactions with, a
38 related member during the taxable year. This addition is not required for an amount of royalty
39 payments or interest expenses that meets any of the following conditions:
- 40 (1) The related member includes the amount as income on a return filed under
41 this Part for the same taxable year that the amount is deducted by the
42 taxpayer, and the related member does not elect to deduct the amount
43 pursuant to G.S. 105-130.5(b)(20).
- 44 (2) The taxpayer can establish that the related member during the same taxable
45 year directly or indirectly paid, accrued, or incurred the amount to a person
46 who is not a related member.
- 47 (3) The taxpayer can establish that the related member to whom the amount was
48 paid is organized under the laws of a country other than the United States,
49 the country has a comprehensive income tax treaty with the United States,
50 and the country imposes a tax on the royalty income of the related member
51 at a rate that equals or exceeds the rate set in G.S. 105-130.3.

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

3 **SECTION 4.2.(e)** Subsection (b) of this section becomes effective for taxable
4 years beginning on or after January 1, 2017. Subsections (c) and (d) of this section become
5 effective for taxable years beginning on or after January 1, 2013. The remainder of this section
6 is effective when it becomes law.

7
8 **4.3 REPLACE FRANCHISE TAX WITH A BUSINESS PRIVILEGE TAX**
9 **THAT INCLUDES ALL LIMITED LIABILITY ENTITIES**

10 **SECTION 4.3.(a)** The title of Article 3 of Chapter 105 of the General Statutes
11 reads as rewritten:

12 "Article 3.

13 ~~Franchise Tax.~~ Business Privilege Tax."

14 **SECTION 4.3.(b)** G.S. 105-114, 105-114.1, 105-121.1, 105-122, 105-122.1,
15 105-125, 105-127, 105-128, and 105-129 are repealed.

16 **SECTION 4.3.(c)** Article 3 of Chapter 105 of the General Statutes is amended by
17 adding the following new sections to read:

18 **"§ 105-114.2. Definitions.**

19 The following definitions apply in this Article:

- 20 (1) Affiliate. – A business entity under common ownership with another
21 business entity.
- 22 (2) Affiliated group. – Defined in section 1504 of the Code.
- 23 (3) Business entity. – Any of the following:
- 24 a. A domestic corporation organized under Chapter 55 of the General
25 Statutes or a foreign corporation that has received a certificate of
26 authority under that Chapter authorizing it to do business in this
27 State.
- 28 b. An electric membership corporation organized under Chapter 117 of
29 the General Statutes.
- 30 c. A domestic limited liability company formed under Chapter 57C of
31 the General Statutes or a foreign limited liability company that has
32 received a certificate of authority under that Chapter authorizing it to
33 do business in this State.
- 34 d. A domestic limited partnership formed under Article 5 of Chapter 59
35 of the General Statutes or a foreign limited partnership that has
36 received a certificate of authority under that Article authorizing it to
37 do business in this State.
- 38 e. A domestic limited liability partnership registered under Article 3B
39 of Chapter 59 of the General Statutes or a foreign limited liability
40 partnership registered under Article 4A of that Chapter.
- 41 f. A domestic or foreign limited liability limited partnership registered
42 under G.S. 59-210.
- 43 g. Any other business whose form of organization confers limited
44 liability on one or more of its owners.
- 45 (4) Capital interest. – The right of a business entity that is not a corporation to
46 receive a percentage of the business entity's assets upon dissolution after
47 payments to creditors.
- 48 (5) City. – Defined in G.S. 105-228.90.
- 49 (6) Code. – Defined in G.S. 105-228.90.

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

29 **"§ 105-114.3. Nature of tax.**

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

38 **"§ 105-114.4 Business privilege tax imposed.**

39 An annual privilege tax is imposed on a business entity doing business in this State at the
40 rate of one dollar and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the higher of the
41 business entity's adjusted net worth tax base, determined in accordance with G.S. 105-114.5,
42 and the business entity's investment tax base, determined in accordance with G.S. 105-114.6.
43 The tax payable by a business entity may not be less than two hundred dollars (\$200.00). The
44 tax payable by a holding company may not be more than seventy-five thousand dollars
45 (\$75,000). The tax imposed by this section does not apply to a company that is subject to tax
46 under G.S. 105-116 unless the tax imposed under that section is less than the tax imposed under
47 this section.

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

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

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

- (1) A liability may not be deducted unless it is a definite and accrued legal liability.
- (2) A deferred tax liability may be netted against a deferred tax asset but may not decrease the deferred tax liability below zero.
- (3) A deduction is allowed for billings in excess of costs that are considered a deferred liability under the percentage of completion method of revenue recognition.
- (4) No deduction is allowed for indebtedness the business entity owes to a parent, a subsidiary, or an affiliate. If part of the capital of the creditor business entity is capital borrowed from a source other than a parent, a subsidiary, or an affiliate, the debtor business entity may deduct a proportionate part of the indebtedness based on the ratio of the borrowed capital of the creditor business entity to the total assets of the creditor business entity. If the creditor business entity is taxable under this Article, the creditor business entity may deduct the indebtedness from its net worth, to the extent the debtor business entity was not allowed to deduct the indebtedness.
- (5) A deduction is allowed for a reserve for the environmental equipment or facilities listed in this subdivision if the business entity has a certification from the appropriate environmental regulatory agency that the business entity has installed or constructed the equipment or facility and is operating it properly. For an air-cleaning device, the Department of Environment and Natural Resources or a local air pollution agency certified under G.S. 143-215.112 is the appropriate environmental regulatory agency. For all other equipment and facilities, the Department of Environment and Natural Resources is the appropriate environmental regulatory agency. This subdivision applies to equipment or a facility whose primary purpose is to do one of the following:
 - a. Reduce air or water pollution resulting from the emission of air contaminants or the discharge of sewage or waste.
 - b. Recycle or recover solid waste.
 - c. Reduce the volume of hazardous waste generated.
- (6) A corporation may deduct the cost of treasury stock.
- (7) An international banking facility may deduct the amount of the facility's assets employed outside the United States that exceeds the facility's liabilities owed to a foreign person, as defined in G.S. 105-130.5(b)(13)d.

"§ 105-114.6. Investment tax base.

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

- (1) The addition of improvements to the property.

- 1 (2) A deduction for indebtedness on the property or on an improvement to the
2 property.
- 3 (3) A deduction for a reserve for the environmental equipment or facilities for
4 which a deduction is allowed under G.S. 105-114.5 from the business
5 entity's net worth, if the entity has the required certification from the
6 appropriate environmental regulatory agency.
- 7 (4) For a business entity allowed a tax credit under Article 3E of this Chapter, a
8 deduction for the value of the property for which the credit is allowed.

9 **"§ 105-114.7. Exclusions in calculating tax.**

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

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

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

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

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

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

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

36 **"§ 105-114.8. Determination of ownership after certain transfers.**

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

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

50 **"§ 105-114.9. Apportionment by multistate business entities.**

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

10 **"§ 105-114.10. Return and payment.**

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

17 ...

18 **"§ 105-116.2. Compensating privilege tax on sellers who are not registered retailers.**

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

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

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

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

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

33 ...

34 **"§ 105-125.1. Exempt business entities.**

35 A business entity listed in this section is exempt from the privilege tax imposed by this
36 Article unless it has unrelated business income. A business entity that is listed in this section
37 and has unrelated business income is subject to the tax imposed by this Article on its adjusted
38 net worth or property attributable to its unrelated business income. Upon request of the
39 Secretary, an exempt business entity must establish its claim for exemption in writing. The
40 exempt entities are:

41 (1) A business entity exempt from federal income tax under the Code.

42 (2) An insurance company subject to tax under Article 8B of this Chapter.

43 (3) A single member limited liability company that is disregarded for federal
44 income tax purposes if the single member is a corporation and the
45 disregarded limited liability company's net worth and property is included in
46 that of its single member.

47 (4) A real estate mortgage investment conduit, as defined in section 860D of the
48 Code."

49 **SECTION 4.3.(d)** This section is effective for taxable years beginning on or after
50 January 1, 2014.

51

4.4 ELIMINATE INEFFECTIVE BUSINESS TAX CREDITS

SECTION 4.4.(a) G.S. 105-129.16H is repealed.

SECTION 4.4.(b) G.S. 105-129.39 reads as rewritten:

"§ 105-129.39. Sunset.

This Article expires for qualified rehabilitation expenditures and rehabilitation expenses incurred on or after January 1, ~~2014~~2013."

SECTION 4.4.(c) G.S. 105-129.75 reads as rewritten:

"§ 105-129.75. Sunset.

This Article expires January 1, ~~2014~~2013, for rehabilitation projects for which an application for an eligibility certification is submitted on or after that date."

SECTION 4.4.(d) The following statutes are repealed:

G.S. 105-130.22

G.S. 105-130.34

G.S. 105-130.36

G.S. 105-130.37

G.S. 105-130.44.

SECTION 4.4.(e) G.S. 105-130.41(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after ~~January 1, 2014~~January 1, 2013."

SECTION 4.4.(f) G.S. 105-151.22(d) reads as rewritten:

"(d) Sunset. – This section is repealed effective for taxable years beginning on or after ~~January 1, 2014~~January 1, 2013."

SECTION 4.4.(g) Subsection (a) of this section becomes effective for taxable years beginning on or after January 1, 2013. Subsection (d) of this section becomes effective on the same date as Section 2.2 of this act. The remainder of this section is effective when it becomes law.

4.5 ELIMINATE ARCHAIC STATE PRIVILEGE LICENSE TAX

SECTION 4.5.(a) Article 2 of Chapter 105 of the General Statutes is repealed.

SECTION 4.5.(b) G.S. 93-12(12) and G.S. 105-259(b)(4) are repealed.

SECTION 4.5.(c) G.S. 53-165 reads as rewritten:

"§ 53-165. Definitions.

The following definitions apply in this Article:

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

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

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

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

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

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

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

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

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

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

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

SECTION 4.5.(d) G.S. 53-172(a) reads as rewritten:

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

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

SECTION 4.5.(e) G.S. 53-191 reads as rewritten:

"§ 53-191. **Businesses exempted.**

~~Nothing in this This Article shall be construed to does not apply to any person, firm or corporation person doing business under the authority of any law of this State or of the United States relating to banks, trust companies, savings and loan associations, cooperative credit unions, agricultural credit corporations or associations organized under the laws of North Carolina, production credit associations organized under the act of Congress known as the federal Farm Credit Act of 1933, pawnbrokers lending or advancing money on specific articles of personal property, industrial banks, the business of negotiating businesses that negotiate or solicit loans on real estate as defined in G.S. 105-41, agent for another for compensation, nor to or installment paper dealers as defined in G.S. 105-83 other than persons, firms and corporations other than persons engaged in the business of accepting fees for endorsing or otherwise securing loans or contracts for the repayment of loans."~~

SECTION 4.5.(f) G.S. 95-47.2(d)(3)c. reads as rewritten:

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

...

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

...

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

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

SECTION 4.5.(g) G.S. 105-130.6A(a)(2) reads as rewritten:

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

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

...."

SECTION 4.5.(h) G.S. 16A-211(c) reads as rewritten:

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

- (1) Supplying piped natural gas taxed under Article 5E of Chapter 105 of the General Statutes.
- (2) Providing telecommunications service taxed under G.S. 105-164.4(a)(4c).
- (3) Providing video programming taxed under G.S. 105-164.4(a)(6).
- (4) Engaging in an activity that was formally taxed by the State under any of the following repealed statutes:
 - a. G.S. 105-41. Attorneys at law and other professionals.
 - b. G.S. 105-83. Installment paper dealers.
 - c. G.S. 105-102.3. Banks."

SECTION 4.5.(i) This section becomes effective January 1, 2014. Subsection (a) of this section applies to taxes imposed under repealed Article 2 of Chapter 105 of the General Statutes as follows:

- (1) For taxes payable under G.S. 105-41, 105-88, or 105-102.3, the section applies to taxes imposed under those statutes for taxable years beginning on or after July 1, 2014.
- (2) For taxes payable under G.S. 105-102.6, the section applies to taxes imposed under that statute for calendar years beginning on or after January 1, 2013.
- (3) For taxes payable under G.S. 105-83, the section applies to obligations dealt in, bought, or discounted on or after January 1, 2014.

4.6 ELIMINATE ANNUAL REPORT FILING FEES

SECTION 4.6.(a) G.S. 55-1-22 reads as rewritten:

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

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

Document	Fee
(1) Articles of incorporation	\$125.00
(2) Application for reserved name	30.00
(3) Notice of transfer of reserved name	10.00
(4) Application for registered name	10.00

1	(5)	Application for renewal of registered name	10.00
2	(6)	Corporation's statement of change of registered agent or registered	
3		office or both	5.00
4	(7)	Agent's statement of change of registered office for each affected	
5		corporation	5.00
6	(8)	Agent's statement of resignation	No fee
7	(9)	Designation of registered agent or registered office or both	5.00
8	(10)	Amendment of articles of incorporation	50.00
9	(11)	Restated articles of incorporation	10.00
10		with amendment of articles	50.00
11	(12)	Articles of merger or share exchange	50.00
12	(12a)	Articles of conversion (other than articles of conversion included as	
13		part of another document)	50.00
14	(13)	Articles of dissolution	30.00
15	(14)	Articles of revocation of dissolution	10.00
16	(15)	Certificate of administrative dissolution	No fee
17	(16)	Application for reinstatement following administrative dissolution	100.00
18	(17)	Certificate of reinstatement	No fee
19	(18)	Certificate of judicial dissolution	No fee
20	(19)	Application for certificate of authority	250.00
21	(20)	Application for amended certificate of authority	75.00
22	(21)	Application for certificate of withdrawal	25.00
23	(22)	Certificate of revocation of authority to transact business	No fee
24	(23)	Annual report-(paper)	25.00 No fee
25	(23a)	Annual report (electronic)	18.00
26	(24)	Articles of correction	10.00
27	(25)	Application for certificate of existence or authorization (paper)	15.00
28	(25a)	Application for certificate of existence or authorization (electronic)	10.00
29	(26)	Any other document required or permitted to be filed by this Chapter	10.00
30	(27)	Repealed by Session Laws 2001-358, s. 6(b), effective January 1, 2002.	

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

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

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

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

40 **SECTION 4.6.(b)** G.S. 55-16-22 reads as rewritten:

41 "**§ 55-16-22. Annual report.**

42 (a) ~~Except as provided in subsections (a1) and (a2) of this section, each domestic~~
 43 ~~corporation and each foreign corporation authorized to transact business in this State shall~~
 44 ~~deliver an annual report to the Secretary of Revenue in paper form or, in the alternative,~~
 45 ~~directly to the Secretary of State in electronic form as prescribed by the Secretary of State~~
 46 ~~under this section. Requirement. – The following businesses must file an annual report with the~~
 47 ~~Secretary of State on a form prescribed by the Secretary and in the manner required by the~~
 48 ~~Secretary:~~

49 (1) A corporation that is incorporated under this Chapter.

50 (2) A corporation that has received a certificate of authority under this Chapter
 51 authorizing the corporation to transact business in this State.

1 (3) A company that is an insurance company regulated under Chapter 58 of the
2 General Statutes.

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

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

7 ~~(a3) The annual report required by this section shall be in a form jointly prescribed by~~
8 ~~the Secretary of Revenue and the Secretary of State. The Secretary of Revenue shall provide~~
9 ~~the form needed to file an annual report. The Secretary of State shall prescribe the form needed~~
10 ~~to file an annual report electronically and shall provide this form by electronic means. The~~
11 ~~annual report shall set forth all of the following:~~

12 ~~(1) The name of the corporation and the state or country under whose law it is~~
13 ~~incorporated.~~

14 ~~(2) The street address, and the mailing address if different from the street~~
15 ~~address, of the registered office, the county in which its registered office is~~
16 ~~located, and the name of its registered agent at that office in this State, and a~~
17 ~~statement of any change of such registered office or registered agent, or~~
18 ~~both.~~

19 ~~(3) The address and telephone number of its principal office.~~

20 ~~(4) The names, titles, and business addresses of its principal officers.~~

21 ~~(4a) Repealed by Session Laws 1997-475, s. 6.1, effective January 1, 1998.~~

22 ~~(5) A brief description of the nature of its business.~~

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

26 ~~(b) Content. – An annual report must set out the information listed in this subsection.~~
27 ~~The information must be current as of the date the business completes the report. Information in~~
28 ~~the annual report must be current as of the date the annual report is executed on behalf of the~~
29 ~~corporation. If the information set out in the business's most recent annual report has not~~
30 ~~changed, the business may certify on its annual report that the information has not changed in~~
31 ~~lieu of restating the information. A business may amend an annual report at any time to correct,~~
32 ~~update, or augment information included in a prior report.~~

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

34 (1) Its name.

35 (2) The state or country under whose law it is incorporated or, if it is an
36 insurance company and is not a corporation, the state or country under
37 whose law it is organized.

38 (3) The street address of its registered office in this State, the county in which
39 the registered office is located, and the name of the registered agent at the
40 registered office. If the registered office or registered agent differs from the
41 registered office or registered agent listed on the preceding annual report, the
42 report must indicate that the registered office or registered agent has
43 changed. A change in registered office or registered agent that is indicated
44 on an annual report is effective when the report is filed.

45 (4) The mailing address of its registered office, if the street address of the office
46 is not the mailing address.

47 (5) The address and telephone number of its principal office.

48 (6) The name, title, and business address of each of its principal officers.

49 (7) A brief description of the nature of its business.

50 (c) Due Date. – An annual report is due by the 15th day of the fourth month following
51 the close of the fiscal year of the business filing the report. An annual report is delinquent if it

1 is not filed within 120 days after it is due. eligible to be delivered to the Secretary of Revenue is
2 due by the due date for filing the corporation's income and franchise tax returns. An extension
3 of time to file a return is an extension of time to file an annual report. At the option of the filer,
4 an annual report may be filed directly with the Secretary of State in electronic form. An annual
5 report required to be delivered to the Secretary of State is due by the fifteenth day of the fourth
6 month following the close of the corporation's fiscal year.

7 (d) Incomplete Report. – If the Secretary of State determines that an annual report filed
8 with the Secretary does not contain the information required by this section, the Secretary must
9 send a written notice to the business that the report is incomplete. An annual report that is
10 corrected to contain the information and filed with the Secretary within 30 days of the date of
11 the notice is considered timely filed. If an annual report does not contain the information
12 required by this section, the Secretary of State shall promptly notify the reporting domestic or
13 foreign corporation in writing and return the report to it for correction. If the report is corrected
14 to contain the information required by this section and delivered to the Secretary of State within
15 30 days after the effective date of notice, it is deemed to be timely filed.

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

19 (f) ~~Expired.~~

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

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

27 **SECTION 4.6.(c)** G.S. 57C-1-22(a)(25) reads as rewritten:

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

<u>Document</u>	<u>Fee</u>
30 ...	
31 (25) Annual report	200.00 <u>No fee</u>
32"	

33 **SECTION 4.6.(d)** G.S. 59-35.2(a)(18) reads as rewritten:

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

<u>Document</u>	<u>Fee</u>
36 ...	
37 (18) Annual report	200.00 <u>No fee</u>
38"	

39 **SECTION 4.6.(e)** G.S. 59-1106(a)(22) reads as rewritten:

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

<u>Document</u>	<u>Fee</u>
42 ...	
43 (22) Annual report for a limited liability limited partnership	200.00 <u>No fee</u>
44"	

45 **SECTION 4.6.(f)** G.S. 105-122.1 is repealed.

46 **SECTION 4.6.(g)** G.S. 105-228.90(a) reads as rewritten:

47 "(a) Scope. – This Article applies to Subchapters I, V, and VIII of this Chapter, ~~to the~~
48 ~~annual report filing requirements of G.S. 55-16-22,~~ to the primary forest product assessment
49
50
51

1 levied under Article 12 of Chapter 113A of the General Statutes, and to inspection taxes levied
2 under Article 3 of Chapter 119 of the General Statutes."

3 **SECTION 4.6.(h)** G.S. 105-256.1 is repealed.

4 **SECTION 4.6.(i)** G.S. 105-259(a) reads as rewritten:

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

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

8 (2) Tax information. – Any information from any source concerning the liability
9 of a taxpayer for a tax, as defined in G.S. 105-228.90. The term includes the
10 following:

11 a. Information contained on a tax return, a tax report, or an application
12 for a license for which a tax is imposed.

13 b. Information obtained through an audit of a taxpayer or by
14 correspondence with a taxpayer.

15 c. Information on whether a taxpayer has filed a tax return or a tax
16 report.

17 d. A list or other compilation of the names, addresses, social security
18 numbers, or similar information concerning taxpayers.

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

24 **SECTION 4.6.(j)** This section becomes effective January 1, 2014. Subsection (f)
25 of this section applies to returns due on or after April 15, 2014, for taxable years beginning on
26 or after January 1, 2014. The remaining sections apply to annual reports due on or after January
27 1, 2014.

29 4.7 CONFORMING CHANGES

30 **SECTION 4.7.(a)** G.S. 105-116 reads as rewritten:

31 "**§ 105-116. ~~Franchise or privilege~~ Privilege tax on electric power, water, and sewerage**
32 **companies.**

33 (a) Tax. – An annual ~~franchise or privilege~~ tax is imposed on the following:

34 (1) An electric power company engaged in the business of furnishing electricity,
35 electric lights, current, or power.

36 (2), (2a) Repealed by Session Laws 1998-22, s. 2, effective July 1, 1999.

37 (3) A water company engaged in owning or operating a water system subject to
38 regulation by the North Carolina Utilities Commission.

39 (4) A public sewerage company engaged in owning or operating a public
40 sewerage system.

41 (a1) Rate. – The tax on an electric power company is three and twenty-two hundredths
42 percent (3.22%) of the company's taxable gross receipts from the business of furnishing
43 electricity, electric lights, current, or power. The tax on a water company is four percent (4%)
44 of the company's taxable gross receipts from owning or operating a water system subject to
45 regulation by the North Carolina Utilities Commission. The tax on a public sewerage company
46 is six percent (6%) of the company's taxable gross receipts from owning or operating a public
47 sewerage company. A company's taxable gross receipts are its gross receipts from business
48 inside the State less the amount of gross receipts from sales reported under subdivision (b)(2).
49 A company that engages in more than one business taxed under this section shall pay tax on
50 each business.

1 (b) Report and Payment. – The tax imposed by this section is payable quarterly or
2 monthly as specified in this subsection. A return is due quarterly.

3 A water company or public sewerage company must pay tax quarterly when filing a return.
4 An electric power company must pay tax in accordance with the schedule and requirements that
5 apply to payments of sales and use tax under G.S. 105-164.16 and must file a return quarterly.

6 A quarterly return covers a calendar quarter and is due by the last day of the month that
7 follows the quarter covered by the return. A taxpayer must submit a return on a form provided
8 by the Secretary. The return must include the taxpayer's gross receipts from all property it
9 owned or operated during the reporting period in connection with its business taxed under this
10 section. A taxpayer must report its gross receipts on an accrual basis. A return must contain the
11 following information:

12 (1) The taxpayer's gross receipts for the reporting period from business inside
13 and outside this State, stated separately.

14 (2) The taxpayer's gross receipts from commodities or services described in
15 subsection (a) that are sold to a vendee subject to the tax levied by this
16 section or to a joint agency established under Chapter 159B of the General
17 Statutes or a city having an ownership share in a project established under
18 that Chapter.

19 (3) The amount of and price paid by the taxpayer for commodities or services
20 described in subsection (a) that are purchased from others engaged in
21 business in this State and the name of each vendor.

22 (4) For an electric power company the entity's gross receipts from the sale
23 within each city of the commodities and services described in subsection (a)
24 of this section.

25 (c) Repealed by Session Laws 1998-22, s. 2, effective July 1, 1999.

26 (d) Distribution. – Part of the taxes imposed by this section on electric power
27 companies is distributed to cities under G.S. 105-116.1. If a taxpayer's return does not state the
28 taxpayer's taxable gross receipts derived within a city, the Secretary must determine a practical
29 method of allocating part of the taxpayer's taxable gross receipts to the city.

30 (e) Local Tax. – The following restrictions apply to local taxes on an electric power
31 company that is subject to tax under this section:

32 (1) So long as there is a distribution to cities from the tax imposed by this
33 section, no city shall impose or collect any greater franchise, privilege or
34 license taxes, in the aggregate, on the businesses taxed under this section,
35 than was imposed and collected on or before January 1, 1947.

36 ~~(e1)(2) An electric power company engaged in the business of furnishing electricity,~~
37 ~~electric lights, current, or power that collects the annual franchise or~~
38 ~~privilege tax pursuant to subsection (a) of this section and remits the tax~~
39 ~~collected to the Secretary shall not be is not subject to any additional~~
40 ~~franchise or privilege tax imposed upon it by any city or county.~~

41 (f) Repealed by Session Laws 1998-22, s. 2, effective July 1, 1999."

42 **SECTION 4.7.(b)** G.S. 105-120.2 reads as rewritten:

43 **"§ 105-120.2. ~~Franchise or privilege~~ Privilege tax on holding companies.**

44 ...

45 (b) (1) Every corporation taxed under this section shall annually pay to the
46 Secretary of Revenue, at the time the report and statement are due, a
47 ~~franchise or privilege tax~~, which is hereby levied, at the rate of one dollar
48 and fifty cents (\$1.50) per one thousand dollars (\$1,000) of the amount
49 determined under subsection (a) of this section, but in no case shall the tax
50 be more than seventy-five thousand dollars (\$75,000) nor less than
51 thirty-five dollars (\$35.00).

- 1 (2) Notwithstanding the provisions of subdivision (1) of this subsection, if the
2 tax produced pursuant to application of this paragraph (2) exceeds the tax
3 produced pursuant to application of subdivision (1), then the tax shall be
4 levied at the rate of one dollar and fifty cents (\$1.50) per one thousand
5 dollars (\$1,000) on the greater of the amounts of
- 6 a. Fifty-five percent (55%) of the appraised value as determined for ad
7 valorem taxation of all the real and tangible personal property in this
8 State of each such corporation plus the total appraised value of
9 intangible property returned for taxation of intangible personal
10 property as computed under G.S. 105-122(d); or
 - 11 b. The total actual investment in tangible property in this State of such
12 corporation as computed under G.S. 105-122(d).

13"

14 **SECTION 4.7.(c)** G.S. 105-129.17(a) reads as rewritten:

15 "(a) Tax Election. – The credit allowed in G.S. 105-129.16A is allowed against the
16 ~~franchise-privilege~~ tax levied in Article 3 of this Chapter, the income taxes levied in Article 4
17 of this Chapter, or the gross premiums tax levied in Article 8B of this Chapter. All other credits
18 allowed in this Article are allowed against the ~~franchise-privilege~~ tax levied in Article 3 of this
19 Chapter or the income taxes levied in Article 4 of this Chapter. The taxpayer must elect the tax
20 against which a credit will be claimed when filing the return on which the first installment of
21 the credit is claimed. This election is binding. Any carryforwards of a credit must be claimed
22 against the same tax."

23 **SECTION 4.7.(d)** G.S. 105-129.27(b) reads as rewritten:

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

28 **SECTION 4.7.(e)** G.S. 105-129.41(a1) reads as rewritten:

29 "(a1) Tax Election. – The credit allowed in this section is allowed against the ~~franchise~~
30 ~~privilege~~ tax levied in Article 3 of this Chapter, the income taxes levied in Article 4 of this
31 Chapter, or the gross premiums tax levied in Article 8B of this Chapter. The taxpayer must
32 elect the tax against which the credit will be claimed when filing the return on which the first
33 installment of the credit is claimed. This election is binding. Any carryforwards of the credit
34 must be claimed against the same tax."

35 **SECTION 4.7.(f)** G.S. 105-129.50 reads as rewritten:

36 "**§ 105-129.50. Definitions.**

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

- 39 (1) Reserved.
- 40 (2) Development tier. – The classification assigned to an area pursuant to
41 G.S. 143B-437.08.
- 42 (3) Establishment. – Defined in 29 C.F.R. § 1904.46, as it existed on January 1,
43 2002.
- 44 (4) North Carolina university research expenses. – Any amount the taxpayer
45 paid or incurred to a research university for qualified research performed in
46 this State or basic research performed in this State.
- 47 (5) Period of measurement. – Defined in the Small Business Size Regulations of
48 the federal Small Business Administration.
- 49 (6) Qualified North Carolina research expenses. – Qualified research expenses,
50 other than North Carolina university research expenses, for research
51 performed in this State.

- 1 (7) Receipts. – Defined in the Small Business Size Regulations of the federal
2 Small Business Administration.
- 3 (8) Related person. – ~~Defined in G.S. 105-163.010.~~ A person described in one of
4 the relationships set forth in section 267(b) or 707(b) of the Code.
- 5 (9) Research university. – An institution of higher education that meets one or
6 both of the following conditions:
- 7 a. It is classified as one of the following in the most recent edition of
8 "A Classification of Institutions of Higher Education", the official
9 report of The Carnegie Foundation for the Advancement of
10 Teaching:
- 11 1. Doctoral/Research Universities, Extensive or Intensive.
12 2. Masters Colleges and Universities, I or II.
13 3. Baccalaureate Colleges, Liberal Arts or General.
- 14 b. It is a constituent institution of The University of North Carolina.
- 15 (10) Small business. – A business whose annual receipts, combined with the
16 annual receipts of all related persons, for the applicable period of
17 measurement did not exceed one million dollars (\$1,000,000)."

18 **SECTION 4.7.(g)** G.S. 105-129.51 reads as rewritten:

19 **"§ 105-129.51. ~~Administration;~~ Additional eligibility requirements and sunset.**

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

- 24 (1) Wage. – For research performed at an establishment in a development tier
25 two or development tier three area, the taxpayer must meet the general wage
26 standard or, if applicable, the zone wage standard published by the Secretary
27 of Commerce under G.S. 143B-437.010A. For research performed at an
28 establishment in a development tier one area, no wage standard applies.
- 29 (2) Health insurance. – The health insurance standard set in
30 G.S. 143B-437.010A applies to all the jobs at an establishment for which a
31 credit or a carryforward of a credit is claimed under this Article. If a
32 taxpayer qualifies for a credit under this Article and then fails to meet the
33 health insurance standard during a taxable year, the credit expires, and the
34 taxpayer may not take any remaining carryforwards of the credit.
- 35 (3) Environmental impact. – The environmental standard set in
36 G.S. 143B-437.010A applies to a taxpayer who claims a credit under this
37 Article. A taxpayer must meet the standard at the time the taxpayer claims
38 the credit.
- 39 (4) Employee safety and health. – The employee safety and health standard set
40 in G.S. 143B-437.010A applies to a taxpayer who claims a credit under this
41 Article. A taxpayer must meet the standard at the time the taxpayer claims
42 the credit.

43 (b) Sunset. – This Article is repealed for taxable years beginning on or after January 1,
44 2014.

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

47 **SECTION 4.7.(h)** G.S. 105-129.96(b) reads as rewritten:

48 "(b) Taxes Credited. – The credit provided in this section is allowed against the franchise
49 privilege tax levied in Article 3 of this Chapter or the income taxes levied in Article 4 of this
50 Chapter. The taxpayer must elect the tax against which a credit will be claimed when filing the
51 return on which the first installment of the credit is claimed. This election is binding. The credit

1 may not exceed fifty percent (50%) of the tax against which it is applied. Any unused portion
2 of a credit may be carried forward for the succeeding 10 years. Any carryforwards of a credit
3 must be claimed against the same tax."

4 **SECTION 4.7.(i)** G.S. 105-130.6A(h) reads as rewritten:

5 "(h) Limitation on Credits. – The credits provided in this section are allowed against the
6 tax levied in this Part and the ~~franchise-privilege~~ tax levied in Article 3 of this Chapter. A
7 taxpayer may claim a credit against only one of the taxes against which it is allowed. Each
8 taxpayer must elect the tax against which the credit will be taken when filing the return on
9 which the first installment of the credit is claimed. This election is binding. All installments and
10 carryforwards of the credit must be taken against the same tax.

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

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

20 **SECTION 4.7.(j)** G.S. 105-130.9(4) is repealed.

21 **SECTION 4.7.(k)** G.S. 105-230 reads as rewritten:

22 "**§ 105-230. ~~Charter suspended for failure to report.~~Suspension of business entity's right**
23 **to do business for noncompliance.**

24 (a) Suspension. If a corporation or a limited liability company fails to file any Failure of
25 a business entity, as defined in G.S. 105-114.2, to file a report or return or to pay any a tax or
26 fee required by this Subchapter for 90 days after it is due, the Secretary shall inform the
27 Secretary of State of this failure. The Secretary of State shall due is grounds to suspend the
28 business entity's articles of incorporation, articles of organization, or certificate of authority, as
29 appropriate, of the corporation or limited liability company. The Secretary of State shall
30 immediately notify by mail every domestic or foreign corporation or limited liability company
31 so suspended of its suspension, or certificate of registration, as appropriate. The Secretary must
32 notify the Secretary of State when a business entity's authority to transact business is subject to
33 suspension. The Secretary of State must then immediately suspend the business entity's articles
34 of incorporation or other authority to transact business and must notify the business entity by
35 mail of the suspension. The powers, privileges, and franchises conferred upon the corporation
36 or limited liability company by the articles of incorporation, the articles of organization, or the
37 certificate of authority business entity by its articles of incorporation or other authority to
38 transact business terminate upon suspension.

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

43 **SECTION 4.7.(l)** G.S. 105-232 reads as rewritten:

44 "**§ 105-232. ~~Rights restored; receivership and liquidation.~~Procedure for reinstatement**
45 **after suspension of business entity's authority to do business for**
46 **noncompliance.**

47 (a) Any corporation or limited liability company whose articles of incorporation,
48 articles of organization, or certificate of authority to do business in this State has been
49 suspended by the Secretary of State under G.S. 105-230, that complies with all the
50 requirements of this Subchapter and pays all State taxes, fees, or penalties due from it (which
51 total amount due may be computed, for years prior and subsequent to the suspension, in the

1 same manner as if the suspension had not taken place), and pays to the Secretary of Revenue a
2 fee of twenty five dollars (\$25.00) to cover the cost of reinstatement, is entitled to exercise
3 again its rights, privileges, and franchises in this State. The Secretary of Revenue shall notify
4 the Secretary of State of this compliance and the Secretary of State shall reinstate the
5 corporation or limited liability company by appropriate entry upon the records of the office of
6 the Secretary of State. Upon entry of reinstatement, it relates back to and takes effect as of the
7 date of the suspension by the Secretary of State and the corporation or limited liability
8 company resumes carrying on its business as if the suspension had never occurred, subject to
9 the rights of any person who reasonably relied, to that person's prejudice, upon the suspension.
10 The Secretary of State shall immediately notify by mail the corporation or limited liability
11 company of the reinstatement. The suspension under G.S. 105-230 of the authority of a business
12 entity to transact business terminates when the business entity resolves the noncompliance that
13 resulted in the suspension and pays a reinstatement fee of fifty dollars (\$50.00) to the Secretary
14 of Revenue. The Secretary of Revenue must notify the Secretary of State when a business
15 entity whose authority is suspended resolves the noncompliance. The Secretary of State must
16 then immediately reinstate the business entity's authority and must notify the business entity by
17 mail of the reinstatement. Reinstatement of a business entity's authority to do business relates
18 back to and takes effect as of the date of the suspension, subject to the rights of a person who
19 reasonably relied to that person's prejudice on the suspension.

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

49 **SECTION 4.7.(m)** G.S. 105-259(b)(24), (37), and (38) are repealed.

50 **SECTION 4.7.(n)** G.S. 105-269.13 is repealed.

1 **SECTION 4.7.(o)** Article 10 of Chapter 143B of the General Statutes is amended
2 by adding a new section to read:

3 "§ 143B-437.08A. Wage, health insurance, and other standards applicable to economic
4 development incentives.

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

8 (1) General wage standard. – A job meets the general wage standard if it pays an
9 average weekly wage that is at least equal to the lesser of one hundred ten
10 percent (110%) of the average wage for all insured private employers in the
11 State and ninety percent (90%) of the average wage for all insured private
12 employers in the county.

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

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

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

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

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

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

48 (d) Employee Safety and Health. – An employer meets the employee safety and health
49 standard if the employer has no citations under the Occupational Safety and Health Act that
50 have become a final order within the past three years for willful serious violations or for failing
51 to abate serious violations. As used in this subsection, the term "serious violation" has the same

1 meaning as in G.S. 95-127. The Commissioner of Labor must notify the Department of
2 Commerce and the Department of Revenue annually of every person that has had these
3 citations become final orders within the past three years."

4 **SECTION 4.7.(p)** G.S. 143B-437.01(a) and (a1) read as rewritten:

5 "(a) Creation and Purpose of Fund. – There is created in the Department of Commerce
6 the Industrial Development Fund to provide funds to assist the local government units of the
7 most economically distressed counties in the State in creating jobs in certain industries. The
8 Department of Commerce shall adopt rules providing for the administration of the program.
9 Those rules shall include the following provisions, which shall apply to each grant from the
10 fund:

- 11 (1) The funds shall be used for (i) installation of or purchases of equipment for
12 eligible industries, (ii) structural repairs, improvements, or renovations of
13 existing buildings to be used for expansion of eligible industries, or (iii)
14 construction of or improvements to new or existing water, sewer, gas,
15 telecommunications, high-speed broadband, electrical utility distribution
16 lines or equipment, or transportation infrastructure for existing or new or
17 proposed industrial buildings to be used for eligible industries. To be eligible
18 for funding, the water, sewer, gas, telecommunications, high-speed
19 broadband, electrical utility lines or facilities, or transportation infrastructure
20 shall be located on the site of the building or, if not located on the site, shall
21 be directly related to the operation of the specific eligible industrial activity.
- 22 (1a) The funds shall be used for projects located in economically distressed
23 counties except that the Secretary of Commerce may use up to one hundred
24 thousand dollars (\$100,000) to provide emergency economic development
25 assistance in any county that is documented to be experiencing a major
26 economic dislocation.
- 27 (2) The funds shall be used by the city and county governments for projects that
28 will directly result in the creation of new jobs. The funds shall be expended
29 at a maximum rate of five thousand dollars (\$5,000) per new job created up
30 to a maximum of five hundred thousand dollars (\$500,000) per project.
- 31 (3) There shall be no local match requirement if the project is located in a
32 county that has one of the 25 highest rankings under G.S. 143B-437.08 or
33 that has a population of less than 50,000 and more than nineteen percent
34 (19%) of its population below the federal poverty level according to the most
35 recent federal decennial census.
- 36 (4) The Department may authorize a local government that receives funds under
37 this section to use up to two percent (2%) of the funds, if necessary, to verify
38 that the funds are used only in accordance with law and to otherwise
39 administer the grant or loan.
- 40 (5) No project subject to the Environmental Policy Act, Article 1 of Chapter
41 113A of the General Statutes, shall be funded unless the Secretary of
42 Commerce finds that the proposed project will not have a significant adverse
43 effect on the environment. The Secretary of Commerce shall not make this
44 finding unless the Secretary has first received a certification from the
45 Department of Environment and Natural Resources that concludes, after
46 consideration of avoidance and mitigation measures, that the proposed
47 project will not have a significant adverse effect on the environment.
- 48 (6) The funds shall not be used for any nonmanufacturing project that does not
49 meet the general wage standard set out in
50 ~~G.S. 105-129.4(b)~~. G.S. 143B-437.08A.

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

- 1 (1) Air courier services. – Defined in G.S. 105-129.81. The furnishing of air
2 delivery of individually addressed letters and packages for compensation, in
3 interstate commerce, except by the United States Postal Service.
- 4 (2) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
- 5 (2a) Company headquarters. – Defined in G.S. 105-129.81. A corporate,
6 subsidiary, or regional managing office, as defined by NAICS in United
7 States industry 551114, that is responsible for strategic or organizational
8 planning and decision making for the business on an international, national,
9 or multistate regional basis.
- 10 (3) Repealed by Session Laws 2006-252, s. 2.4, effective January 1, 2007.
- 11 (4) Economically distressed county. – A county that has one of the 65 highest
12 rankings under G.S. 143B-437.08 after the adjustments of that section are
13 applied.
- 14 (5) Eligible industry. – A company headquarters or a person engaged in the
15 business of air courier services, information technology and services,
16 manufacturing, or warehousing and wholesale trade.
- 17 (6) Information technology and services. – ~~Defined in G.S. 105-129.81.~~ An
18 industry in one of the following:
- 19 a. Internet service providers, Web search portals, and data processing
20 subsector 518 as defined by NAICS.
- 21 b. Software publishers industry group 5112 as defined by NAICS.
- 22 c. Computer systems design and related services industry group 5415 as
23 defined by NAICS.
- 24 (7) Major economic dislocation. – The actual or imminent loss of 500 or more
25 manufacturing jobs in the county or of a number of manufacturing jobs equal
26 to at least ten percent (10%) of the existing manufacturing workforce in the
27 county.
- 28 (8) ~~Manufacturing. – Defined in G.S. 105-129.81.~~ An industry in manufacturing
29 sectors 31 through 33, as defined by NAICS, but not including quick
30 printing or retail bakeries.
- 31 (9) NAICS. – Defined in G.S. 105-228.90.
- 32 (10) ~~Warehousing. – Defined in G.S. 105-129.81.~~ An industry in warehousing
33 and storage subsector 493 as defined by NAICS.
- 34 (11) ~~Wholesale trade. – Defined in G.S. 105-129.81.~~ An industry in wholesale
35 trade sector 42 as defined by NAICS."

36 **SECTION 4.7.(q)** Subsections (a) through (e) of this section become effective
37 January 1, 2014. The remainder of this section becomes effective January 1, 2013.

38

39 **PART V. BALANCE STATE AND LOCAL REVENUES**

40

41 **5.1 SPECIFIC FINDINGS AND PURPOSE**

42 **SECTION 5.1.(a)** The General Assembly of North Carolina finds the following:

- 43 (1) North Carolina's current tax structure contains a number of taxes and
44 revenues that are shared between the State and its local governments.
- 45 (2) The shared revenues often reflect historic assignments of responsibility that
46 are no longer valid or are otherwise based on rationales that no longer apply.
- 47 (3) There are a variety of different formulas and methodologies for distribution
48 of the shared revenues that are complex and difficult to understand and
49 administer.
- 50 (4) The excessive commingling of State and local revenue sources makes it
51 more difficult for citizens to understand the true cost of government at

1 different levels and to hold State and local governments accountable for how
2 revenues are used.

- 3 (5) The expansion of the State and local sales and use tax base, as provided in
4 this act, will increase the local sales and use tax revenues distributable to
5 local governments, and this revenue stream is one that will grow as the
6 economy expands.

7 **SECTION 5.1.(b)** It is the intent of this Part to reduce and simplify the
8 commingling of revenues so far as is practicable and to distinguish State sources of revenue
9 from local sources of revenue for purposes of better accountability and understanding by
10 citizens. The General Assembly recognizes that the expansion of the sales and use tax base will
11 increase local sales and use tax revenue and eliminate the need for the current level of State tax
12 revenues distributed to local governments. The General Assembly further recognizes that some
13 distributions of State tax revenue may continue to be required, at least initially, in order to
14 protect local governments from otherwise drastic and disruptive losses of revenues.

15 **SECTION 5.1.(c)** This section is effective when it becomes law.

16
17 **5.2 REPLACE DISTRIBUTIONS WITH EXPANDED SALES TAX BASE**

18 **SECTION 5.2.(a)** G.S. 105-164.4(c)(3), as enacted by this act, is repealed.

19 **SECTION 5.2.(b)** G.S. 105-486 is amended by adding the following new
20 subsection to read:

21 "(b) Exception. – The net proceeds from sales of spirituous liquor are not allocable on a
22 per capita basis. The Secretary must allocate these proceeds to the county from which they
23 were collected. If the sale of liquor is not authorized throughout a county to which the proceeds
24 are allocated, the Secretary must distribute the proceeds only among the cities in that county in
25 which the sale of liquor is authorized on the basis of population."

26 **SECTION 5.2.(c)** G.S. 105-486(b) is repealed.

27 **SECTION 5.2.(d)** G.S. 105-113.82 is repealed.

28 **SECTION 5.2.(e)** G.S. 105-521 is repealed.

29 **SECTION 5.2.(f)** G.S. 108A-93 reads as rewritten:

30 "**§ 108A-93. Withholding of State moneys from counties failing to pay public assistance**
31 **costs.**

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

40 **SECTION 5.2.(g)** G.S. 115C-546.1 is repealed.

41 **SECTION 5.2.(h)** Subsections (a) through (c) of this section become effective
42 October 1, 2013. Subsection (a) of this section applies to sales occurring on or after that date,
43 and subsections (b) and (c) of this section apply to distributions for months beginning on or
44 after that date. Subsections (d) through (g) of this section become effective July 1, 2014. The
45 remainder of this section is effective when it becomes law.

46
47 **5.3 IMPOSE ONLY ONE PRIVILEGE TAX ON BUSINESSES BY**
48 **ELIMINATING LOCAL PRIVILEGE LICENSE TAXES**

49 **SECTION 5.3.(a)** G.S. 153A-152 reads as rewritten:

50 "**§ 153A-152. ~~Privilege~~ No general authority for privilege license taxes.**

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

- ~~G.S. 105-50~~ Pawnbrokers.
- ~~G.S. 105-53~~ Peddlers, itinerant merchants, and specialty market operators.
- ~~G.S. 105-55~~ Installing elevators and automatic sprinkler systems.
- ~~G.S. 105-58~~ Fortune tellers, palmists, etc.
- ~~G.S. 105-65~~ Music machines.
- ~~G.S. 105-66.1~~ Electronic video games.
- ~~G.S. 105-80~~ Firearms dealers and dealers in other weapons.
- ~~G.S. 105-89~~ Automobiles, wholesale supply dealers and service stations.
- ~~G.S. 105-89.1~~ Motorcycle dealers.
- ~~G.S. 105-90~~ Emigrant and employment agents.
- ~~G.S. 105-102.5~~ General business license.

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

SECTION 5.3.(b) G.S. 160A-211 reads as rewritten:

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

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

- ~~G.S. 105-36~~ Amusements— Manufacturing, selling, leasing, or distributing moving picture films.
- ~~G.S. 105-36.1~~ Amusements— Outdoor theatres.
- ~~G.S. 105-37~~ Amusements— Moving pictures— Admission.
- ~~G.S. 105-42~~ Private detectives and investigators.
- ~~G.S. 105-45~~ Collecting agencies.
- ~~G.S. 105-46~~ Undertakers and retail dealers in coffins.
- ~~G.S. 105-50~~ Pawnbrokers.
- ~~G.S. 105-51.1~~ Alarm systems.
- ~~G.S. 105-53~~ Peddlers, itinerant merchants, and specialty market operators.
- ~~G.S. 105-54~~ Contractors and construction companies.
- ~~G.S. 105-55~~ Installing elevators and automatic sprinkler systems.
- ~~G.S. 105-61~~ Hotels, motels, tourist courts and tourist homes.
- ~~G.S. 105-62~~ Restaurants.
- ~~G.S. 105-65~~ Music machines.
- ~~G.S. 105-65.1~~ Merchandising dispensers and weighing machines.
- ~~G.S. 105-66.1~~ Electronic video games.
- ~~G.S. 105-74~~ Pressing clubs, dry cleaning plants, and hat blockers.

1	G.S. 105-77	Tobacco warehouses.
2	G.S. 105-80	Firearms dealers and dealers in other weapons.
3	G.S. 105-85	Laundries.
4	G.S. 105-86	Outdoor advertising.
5	G.S. 105-89	Automobiles, wholesale supply dealers, and service
6		stations.
7	G.S. 105-89.1	Motorcycle dealers.
8	G.S. 105-90	Emigrant and employment agents.
9	G.S. 105-91	Plumbers, heating contractors, and electricians.
10	G.S. 105-97	Manufacturers of ice cream.
11	G.S. 105-98	Branch or chain stores.
12	G.S. 105-99	Wholesale distributors of motor fuels.
13	G.S. 105-102.1	Certain cooperative associations.
14	G.S. 105-102.5	General business license.

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

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

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

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

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

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

30 **SECTION 5.3.(c)** G.S. 105-113.68(a)(6), 105-113.69, 105-113.70, 105-113.71,
 31 and Part 3 of Article 2C of Chapter 105 of the General Statutes are repealed.

32 **SECTION 5.3.(d)** This section becomes effective July 1, 2014, and applies to taxes
 33 imposed for fiscal years beginning on or after that date.

34 5.4 CONFORMING CHANGES

35 **SECTION 5.4.(a)** G.S. 153A-134 reads as rewritten:

36 "**§ 153A-134. Regulating and licensing businesses, trades, etc.**

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

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

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

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

49 ~~This section does not impair the county's power to levy privilege license taxes on~~
 50 ~~occupations, businesses, trades, professions, and other activities pursuant to G.S. 153A-152."~~
 51

1 **SECTION 5.4.(b)** The catch line to G.S. 153A-156 reads as rewritten:

2 "**§ 153A-156. ~~Gross receipts tax on short-term leases or rentals.~~Motor vehicle gross**
3 **receipts tax in lieu of property tax.**"

4 **SECTION 5.4.(c)** G.S. 153A-156(a) reads as rewritten:

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

11 **SECTION 5.4.(d)** G.S. 160A-194 reads as rewritten:

12 "**§ 160A-194. Regulating and licensing businesses, trades, etc.**

13 A city may by ordinance, subject to the general law of the State, regulate and license
14 occupations, businesses, trades, professions, and forms of amusement or entertainment and
15 prohibit those that may be inimical to the public health, welfare, safety, order, or convenience.
16 In licensing trades, occupations, and professions, the city may, consistent with the general law
17 of the State, require applicants for licenses to be examined and charge a reasonable fee ~~therefor~~
18 for the examination. Nothing in this section shall impair the city's power to levy privilege
19 license taxes on occupations, businesses, trades, professions, and other activities pursuant to
20 G.S. 160A-211.

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

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

28 **SECTION 5.4.(e)** The catch line to G.S. 160A-215.1 reads as rewritten:

29 "**§ 160A-215.1. ~~Gross receipts tax on short-term leases or rentals.~~Motor vehicle gross**
30 **receipts tax in lieu of property tax.**"

31 **SECTION 5.4.(f)** G.S. 160A-215.1(a) reads as rewritten:

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

39 **SECTION 5.4.(g)** This section becomes effective July 1, 2014.

40

41 **PART VI. ACCOUNT FOR TAX EXPENDITURES IN BUDGET**

42

43 **6.1 SPECIFIC FINDINGS AND PURPOSE**

44 **SECTION 6.1.(a)** The General Assembly of North Carolina finds the following:

- 45 (1) A tax expenditure and an appropriation have the same effect on State funds
46 in that they reduce the amount of funds available for other purposes and
47 provide State funds for a particular entity or purpose.
- 48 (2) Despite their same effect, an appropriation is reviewed each year, but a tax
49 expenditure is not subject to regular review.
- 50 (3) Every tax expenditure should be subject to regular review to determine if the
51 expenditure is accomplishing its objective.

- 1 (4) Inclusion in the budget availability statement of the annual amount of tax
2 expenditures promotes awareness and review of the expenditures.

3 **SECTION 6.1.(b)** It is the intent of this Part to include the annual amount of tax
4 expenditures in the budget availability statement, thereby subjecting tax expenditures to the
5 same level of review as appropriations.

6
7 **6.2 INCLUDE TAX EXPENDITURES IN BUDGET AVAILABILITY**
8 **STATEMENT**

9 **SECTION 6.2.(a)** G.S. 143C-5-3 reads as rewritten:

10 **"§ 143C-5-3. Availability statement required.**

11 The Current Operations Appropriations Act enacted by the General Assembly shall state the
12 General Fund, Highway Fund, and Highway Trust Fund availability used as basis for
13 appropriations from those funds. The availability statement must list the anticipated tax
14 revenues the State's tax structure would generate in the absence of the tax expenditures
15 included in the tax structure and show as a deduction from this amount the anticipated
16 reduction in these tax revenues resulting from the tax expenditures. The statement may use the
17 Department of Revenue's most recent compilation of tax expenditures published under
18 G.S. 105-256 to determine the anticipated reduction resulting from the tax expenditures. If the
19 Department of Revenue's compilation does not include an estimate for a tax expenditure, the
20 statement may include an estimate of the anticipated cost of that expenditure provided by the
21 Fiscal Research Division of the General Assembly. If neither the Department of Revenue's
22 compilation nor the Fiscal Research Division provides an estimate for a tax expenditure, the
23 statement may omit the anticipated cost of that expenditure."

24 **SECTION 6.2.(b)** This section is effective when it becomes law.

25
26 **PART VII. TRANSITIONAL PROVISIONS AND EFFECTIVE DATE**

27 **SECTION 7.(a)** The Revenue Laws Study Committee is directed to study the fiscal
28 impact of the changes proposed by this act and to recommend to the General Assembly any
29 adjustments needed. The Committee is specifically directed to address the following:

- 30 (1) The administration and revenue performance of the business privilege tax
31 and to recommend to the General Assembly any adjustment to the business
32 privilege tax sufficient to offset a phased elimination of the corporate
33 income tax at the rate of a one-percent (1%) rate reduction per year,
34 beginning in taxable year 2014, until the tax is eliminated.
- 35 (2) The application of the business privilege tax on related business entities and
36 to recommend to the General Assembly any changes needed to prevent
37 vertical or horizontal pyramiding of the tax.
- 38 (3) The amount of additional revenue received by counties and cities as a result
39 of the expansion of the sales tax base in this act and the amount by which
40 local revenue is reduced by the repeal of local privilege license taxes.
- 41 (4) The reasons for the remaining distributions of State tax revenue to local
42 governments and ways to eliminate as many of these distributions as
43 possible.

44 **SECTION 7.(b)** This act does not affect the rights or liabilities of the State, a
45 taxpayer, or another person arising under a statute amended or repealed by this act before the
46 effective date of its amendment or repeal; nor does it affect the right to any refund or credit of a
47 tax that accrued under the amended or repealed statute before the effective date of its
48 amendment or repeal.

49 **SECTION 7.(c)** Except as otherwise provided, this act is effective when it
50 becomes law.