

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015**

**SESSION LAW 2015-259
HOUSE BILL 117**

AN ACT TO ENACT THE NORTH CAROLINA COMPETES ACT.

The General Assembly of North Carolina enacts:

PART I. JDIG MODIFICATIONS

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

"§ 143B-437.51. Definitions.

The following definitions apply in this Part:

- (1) Agreement. – A community economic development agreement under G.S. 143B-437.57.
- (2) Base period. – The period of time set by the Committee during which new employees are to be hired for the positions on which the grant is based.
- (3) Business. – A corporation, sole proprietorship, cooperative association, partnership, S corporation, limited liability company, nonprofit corporation, or other form of business organization, located either within or outside this State.
- (4) Committee. – The Economic Investment Committee established pursuant to G.S. 143B-437.54.
- (4a) Development tier. – The classification assigned to an area pursuant to G.S. 143B-437.08.
- (5) Eligible position. – A position created by a business and filled by a new full-time employee in this State during the base period.
- (6) Full-time employee. – A person who is employed for consideration for at least 35 hours a week, whose wages are subject to withholding under Article 4A of Chapter 105 of the General Statutes, and who is determined by the Committee to be employed in a permanent position according to criteria it develops in consultation with the Attorney General. The term does not include any person who works as an independent contractor or on a consulting basis for the business.
- (6a) High-yield project. – A project for which the agreement requires that a business invest at least five hundred million dollars (\$500,000,000) in private funds and create at least 1,750 eligible positions.
- (7) New employee. – A full-time employee who represents a net increase in the number of the business's employees statewide.
- (8) Overdue tax debt. – Defined in G.S. 105-243.1.
- (9) Related member. – Defined in G.S. 105-130.7A.
- (10) Withholdings. – The amount withheld by a business from the wages of employees in eligible positions under Article 4A of Chapter 105 of the General Statutes."

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

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

(a) Program. – There is established the Job Development Investment Grant Program to be administered by the Economic Investment Committee. In order to foster job creation and investment in the economy of this State, the Committee may enter into agreements with businesses to provide grants in accordance with the provisions of this Part. The Committee, in consultation with the Attorney General, shall develop criteria to be used in determining whether the conditions of this section are satisfied and whether the project described in the application



is otherwise consistent with the purposes of this Part. Before entering into an agreement, the Committee must find that all the following conditions are met:

- (1) The project proposed by the business will create, during the term of the agreement, a net increase in employment in this State by the business.
- (2) The project will benefit the people of this State by increasing opportunities for employment and by strengthening this State's economy by, for example, providing worker training opportunities, constructing and enhancing critical infrastructure, increasing development in strategically important industries, or increasing the State and local tax base.
- (3) The project is consistent with economic development goals for the State and for the area where it will be located.
- (4) A grant under this Part is necessary for the completion of the project in this State.
- (5) The total benefits of the project to the State outweigh its costs and render the grant appropriate for the project.
- (6) For a project located in a development tier three area, the affected local governments have participated in recruitment and offered incentives in a manner appropriate to the project.

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

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

- (1) Maximum liability. – The maximum amount of total annual liability for grants awarded in any single calendar year under this Part, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is fifteen–twenty million dollars (\$15,000,000)–(\$20,000,000) for a year in which no grants are awarded for a high-yield project and is thirty-five million dollars (\$35,000,000) for a year in which a grant is awarded for a high-yield project. No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during a single calendar year, could cause the State's potential total annual liability for grants awarded in a single calendar year to exceed ~~this–the~~ applicable amount. The Department shall make every effort to ensure that the average percentage of withholdings of eligible positions for grants awarded under this Part does not exceed the average of the range provided in G.S. 143B-437.56(a).
- (2) Semiannual commitment limitations. – Of the amount authorized in subdivision (1) of this subsection, no more than fifty percent (50%), excluding roll-over amounts, may be awarded in any single calendar semiannual period. A roll-over amount is any amount from a previous semiannual period in the same calendar year that was not awarded as a grant. The limitation of this subdivision does not apply to a grant awarded to a high-yield project.

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

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

SECTION 1.(c) G.S. 143B-437.53 reads as rewritten:

"§ 143B-437.53. Eligible projects.

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

location with the highest development tier area designation determines the minimum number of eligible positions that must be created.

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

...."

SECTION 1.(d) G.S. 143B-437.55(c) reads as rewritten:

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

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

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

...."

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

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

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

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

(a1) Notwithstanding the percentage specified by subsection (a) of this section, if the project is a high-yield project, the business has met the investment and job creation requirements, and, for three consecutive years, the business has met all terms of the agreement, the amount of the grant awarded shall be no more than one hundred percent (100%) of the withholdings of eligible positions for each consecutive year the business maintains the minimum job creation requirement and meets all terms of the agreement. A business receiving an enhanced percentage of the withholdings of eligible positions under this subsection that fails to maintain the minimum job creation requirement or meet all terms of the agreement will be disqualified from receiving the enhanced percentage and will have the applicable percentage set

forth in subsection (a) of this section applied in the year in which the failure occurs and all remaining years of the grant term.

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

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

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

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

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

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

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

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

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

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

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

....

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

"§ 143B-437.62. Expiration.

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

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

"SECTION 15.19.(a1) Notwithstanding G.S. 143B-437.52(c), for the ~~2013-2015 fiscal biennium~~, period from July 1, 2013, to December 31, 2015, the maximum total liability for grants awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is ~~twenty-two million five hundred thousand dollars (\$22,500,000) and, for~~

~~the period from July 1, 2015, to December 31, 2015, the maximum total liability for grants awarded, including amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is seven million five hundred thousand dollars (\$7,500,000). thirty-five million dollars (\$35,000,000) if no grant is awarded for a high-yield project and is fifty million dollars (\$50,000,000) if a grant is awarded for a high-yield project. No agreement may be entered into that, when considered together with other existing agreements governing grants awarded during an applicable time period provided in this subsection, could cause the State's potential total annual liability for grants awarded in that time period to exceed the designated maximum amount."~~

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

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

PART II. ONE NC MODIFICATIONS

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

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

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

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

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

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

...."

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

PART III. DATACENTER INFRASTRUCTURE ACT

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

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

....

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

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

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

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

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

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

If the level of investment required by G.S. 105-164.3(33c) is not timely made, the exemption provided under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(33c) is timely made but any specific datacenter support equipment is not located and used at the qualifying datacenter, the exemption provided for such datacenter support equipment under this subdivision is forfeited. If the level of investment required by G.S. 105-164.3(33c) is timely made but any portion of electricity is not used at the qualifying datacenter, the exemption provided for such electricity under this subdivision is forfeited. A taxpayer that forfeits an exemption under this subdivision is liable for all past taxes avoided as a result of the forfeited exemption, computed from the date the taxes would have been due if the exemption had not been allowed, plus interest at the rate established under G.S. 105-241.21. If the forfeiture is triggered due to the lack of a timely investment required by G.S. 105-164.3(33c), interest is

computed from the date the taxes would have been due if the exemption had not been allowed. For all other forfeitures, interest is computed from the time as of which the datacenter support equipment or electricity was put to a disqualifying use. The past taxes and interest are due 30 days after the date the exemption is forfeited. A taxpayer that fails to pay the past taxes and interest by the due date is subject to the provisions of G.S. 105-236."

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

PART IV. SALES TAX RELATIVE TO AVIATION

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

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

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

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

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

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

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

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

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

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

...
Motor Fuels Group.

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

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

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

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

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

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

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

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

"§ 105-164.3. Definitions.

The following definitions apply in this Article:

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

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

...."

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

"§ 105-164.4. Tax imposed on retailers.

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

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

a. A manufactured home.

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

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

d. A qualified jet engine.

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

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

...."

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

read:

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

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

(2) A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.

(3) An item purchased by a professional motorsports racing team for which the team may receive a sales tax refund under G.S. 105-164.14A(5).

(4) An item subject to tax under Article 5F of Chapter 105 of the General Statutes.

(5) A qualified aircraft or a qualified jet engine."

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

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

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

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

...."

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

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

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

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

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

...."

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

PART V. EXEMPT MOTOR VEHICLE SERVICE CONTRACTS FROM SALES TAX

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

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

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

SECTION 5.(b) G.S. 105-164.13 is amended by adding a new subdivision to read:

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

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

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

- a. Dealer's warranty. – An explicit warranty the seller of an item extends to the purchaser of the item as part of the purchase price of the item.
- b. Manufacturer's warranty. – An explicit warranty the manufacturer of an item extends to the purchaser of the item as part of the purchase price of the item."

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

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

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

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

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

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

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

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

PART VI. EXTEND SALES TAX PREFERENCES FOR MOTORSPORTS PARTS AND FUEL

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

"§ 105-164.3. **Definitions.**

The following definitions apply in this Article:

...

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

....

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

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

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

...

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

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

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

...

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

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

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

...

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

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

....

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

PART VII. TAX COMPLIANCE AND TAX FRAUD PREVENTION

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

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

(a) Report to Employee. – Every employer required to deduct and withhold from an employee's wages under G.S. 105-163.2 shall furnish to the employee in respect to the remuneration paid by the employer to such employee during the calendar year, on or before January 31 of the succeeding year, or, if the employment is terminated before the close of the

calendar year, within 30 days after the date on which the last payment of remuneration is made, duplicate copies of a written statement showing the following:

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

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

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

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

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

- ...
- (10) Failure to File Informational Returns. –
 - a. Repealed by Session Laws 1998-212, s. 29A.14(m), effective January 1, 1999.
 - b. The Secretary may request a person who fails to file timely statements of payment to another person with respect to wages, dividends, rents, or interest paid to that person to file the statements by a certain date. If the payer fails to file the statements by that date, the amounts claimed on the payer's income tax return as deductions for salaries and wages, or rents or interest shall be disallowed to the extent that the payer failed to comply with the Secretary's request with respect to the statements.
 - c. For failure to file with the Secretary an informational return required by ~~Article 36C or 36D~~ Article 4A, 36C, or 36D of this Chapter by the date the return is due, there shall be assessed a penalty of fifty dollars (\$50.00)."

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

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

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

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

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

The North Carolina State Lottery Commission, established by Chapter 18C of the General Statutes, must deduct and withhold State income taxes from the payment of winnings in an amount of six hundred dollars (\$600.00) or more. The amount of taxes to be withheld is a percentage of the winnings. The percentage is the individual income tax rate in G.S. 105-153.7. The Commission must file a return, pay the withheld taxes, and report the amount withheld in the time and manner required under G.S. 105-163.6 and G.S. 105-163.7 as if the winnings were wages. The taxes the Commission withholds are held in trust for the Secretary."

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

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

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

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

- ~~(1) The payer's name, address, and taxpayer identification number.~~
- ~~(2) The contractor's name, address, and taxpayer identification number.~~
- ~~(3) The total amount of compensation paid during the calendar year.~~
- ~~(4) The total amount deducted and withheld under this section during the calendar year.~~

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

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

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

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

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

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

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

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

- (1) Information provided by the taxpayer in support of the agreement was inaccurate or incomplete.
- (2) Collection of tax to which the agreement applies is in jeopardy.
- (3) The taxpayer's financial condition has changed.
- (4) The taxpayer has failed to pay an installment when due or to pay another tax when due.
- (5) The taxpayer has failed to provide information requested by the Secretary.

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

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

"§ 105-251.2. Compliance information requests.

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

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

- (1) An ABC store in the ABC system, as defined in G.S. 18B-101.
- (2) A wine wholesaler, as defined in G.S. 18B-1201.
- (3) A wholesaler, as defined in G.S. 18B-1301.
- (4) The holder of an unfortified winery permit, a fortified winery permit, a brewery permit, or a distillery permit under G.S. 18B-1100."

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

- (1) Prevention or reduction of the occurrence of stolen identities and refund fraud.
- (2) Elimination of fraudulent returns.
- (3) Tax compliance by business professionals and alcohol vendors.
- (4) Coordination of efforts between the Department of Revenue and the Government Data Analytics Center to identify and integrate into the Department's operations and procedures the most effective and accurate processes and scalable tools available to reduce refund fraud, payment of fraudulent returns, and business tax compliance.

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

PART VIII. EFFECTIVE DATE

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

In the General Assembly read three times and ratified this the 24th day of September, 2015.

s/ Daniel J. Forest
President of the Senate

s/ Paul Stam
Presiding Officer of the House of Representatives

s/ Pat McCrory
Governor

Approved 11:38 a.m. this 30th day of September, 2015