

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE DRS15207-RBx-16A (01/23)

Short Title: Job Creation and Tax Relief Act of 2015.

(Public)

Sponsors: Senators Rucho, Rabon, and Tillman (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO REDUCE PERSONAL INCOME TAXES; TO MODERNIZE, SIMPLIFY, AND  
3 REDUCE BUSINESS TAXES; AND TO ENCOURAGE ECONOMIC DEVELOPMENT  
4 THROUGH PHASING IN A SINGLE SALES TAX FACTOR APPORTIONMENT  
5 FORMULA AND TARGETING THE DISCRETIONARY INCENTIVE PROGRAMS TO  
6 RURAL COUNTIES AND TRANSFORMATIVE INDUSTRIES.

7 The General Assembly of North Carolina enacts:

8  
9 **PART I. INDIVIDUAL INCOME TAX RATE REDUCTIONS**

10 **SECTION 1.1.(a)** G.S. 105-153.5(a) reads as rewritten:

11 "(a) Itemized Deduction Amount. – In calculating North Carolina taxable income, a  
12 taxpayer may deduct from adjusted gross income ~~either the standard deduction amount~~  
13 ~~provided in subdivision (1) of this subsection or the itemized deduction amount provided in~~  
14 ~~subdivision (2) of this subsection that the taxpayer claimed under the Code. The deduction~~  
15 ~~amounts are as follows:~~The itemized deduction amount is equal to the sum of the items listed in  
16 this subsection. The amounts allowed under this subsection are not subject to the overall  
17 limitation on itemized deductions under section 68 of the Code:

- 18 (1) ~~Standard deduction amount.~~Charitable contributions. – The amount allowed  
19 as a deduction for charitable contributions under section 170 of the Code for  
20 that taxable year. The standard deduction amount is zero for a person who is  
21 not eligible for a standard deduction under section 63 of the Code. For all  
22 other taxpayers, the standard deduction amount is equal to the amount listed  
23 in the table below based on the taxpayer's filing status:

<b>Filing Status</b>	<b>Standard Deduction</b>
Married, filing jointly	\$15,000
Head of Household	12,000
Single	7,500
Married, filing separately	7,500.

- 24  
25  
26  
27  
28  
29 (2) ~~Itemized deduction amount.~~Home mortgage and real property taxes. – The

- 30 ~~in this subdivision. The amounts allowed under this subdivision are not~~  
31 ~~subject to the overall limitation on itemized deductions under section 68 of~~  
32 ~~the Code:~~  
33 a. ~~The amount allowed as a deduction for charitable contributions under~~  
34 ~~section 170 of the Code for that taxable year.~~  
35 b. ~~The amount allowed as a deduction for interest paid or accrued~~  
36 ~~during the taxable year under section 163(h) of the Code with respect~~



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to any qualified residence plus the amount claimed by the taxpayer as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. The amount allowed under this ~~sub-subdivision~~ subdivision may not exceed twenty thousand dollars (\$20,000). For spouses filing as married filing separately or married filing jointly, the total mortgage interest and real estate taxes claimed by both spouses combined may not exceed twenty thousand dollars (\$20,000). For spouses filing as married filing separately with a joint obligation for mortgage interest and real estate taxes, the deduction for these items is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real estate taxes paid by both spouses exceeds twenty thousand dollars (\$20,000), these deductions must be prorated based on the percentage paid by each spouse. For joint obligations paid from joint accounts, the proration is based on the income reported by each spouse for that taxable year."

**SECTION 1.1.(b)** G.S. 105-153.7(a) reads as rewritten:

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

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually. ~~The tax is five and seventy five hundredths percent (5.75%) of the taxpayer's North Carolina taxable income. For a taxpayer who deducts the itemized deduction amount under G.S. 105-153.5(a), the rate of tax is five and six hundred twenty-five hundredths percent (5.625%). For all other taxpayers, the rate of 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. 105-153.8 and for a surviving spouse, as defined in section 2(a) of the Code:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
-0-	\$17,500	0%
\$17,501	NA	5.625%

- (2) For a head of household, as defined in section 2(b) of the Code:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
-0-	\$14,000	0%
\$14,001	NA	5.625%

- (3) For an unmarried individual other than a surviving spouse or a head of household:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
-0-	\$8,750	0%
\$8,751	NA	5.625%

- (4) For married individuals who do not file a joint return under G.S. 105-153.8:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
-0-	\$8,750	0%
\$8,751	NA	5.625%"

**SECTION 1.1.(c)** This section becomes effective for taxable years beginning on or after January 1, 2016.

**SECTION 1.2.(a)** G.S. 105-153.7(a), as amended by Section 1.1 of this act, reads as rewritten:

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

(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually. For a taxpayer who

deducts the itemized deduction amount under G.S. 105-153.5(a), the rate of tax is ~~five and six hundred twenty-five hundredths percent (5.625%)~~ five and one-half percent (5.5%). For all other taxpayers, the rate of 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. 105-153.8 and for a surviving spouse, as defined in section 2(a) of the Code:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	<del>\$17,500</del> <u>\$20,000</u>	0%
<del>\$17,501</del> <u>\$20,001</u>	NA	<del>5.625%</del> <u>5.5%</u>

- (2) For a head of household, as defined in section 2(b) of the Code:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	<del>\$14,000</del> <u>\$16,000</u>	0%
<del>\$14,001</del> <u>\$16,001</u>	NA	<del>5.625%</del> <u>5.5%</u>

- (3) For an unmarried individual other than a surviving spouse or a head of household:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	<del>\$8,750</del> <u>\$10,000</u>	0%
<del>\$8,751</del> <u>\$10,001</u>	NA	<del>5.625%</del> <u>5.5%</u>

- (4) For married individuals who do not file a joint return under G.S. 105-153.8:

<b>Over</b>	<b>Up To</b>	<b>Rate</b>
-0-	<del>\$8,750</del> <u>\$10,000</u>	0%
<del>\$8,751</del> <u>\$10,001</u>	NA	<del>5.625%</del> <u>5.5%</u> "

**SECTION 1.2.(b)** This section becomes effective for taxable years beginning on or after January 1, 2017.

**PART II. FRANCHISE TAX CHANGES**

**SECTION 2.(a)** G.S. 105-120.2(b) reads as rewritten:

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

- (1) ~~a~~ A franchise or privilege tax at the rate of ~~one dollar and fifty cents (\$1.50)~~ one dollar and thirty-five cents (\$1.35) per one thousand dollars (\$1,000) of the amount determined under subsection (a) of this section, but in no case shall the tax be more than ~~seventy-five thousand dollars (\$75,000)~~ nor less than ~~thirty-five dollars (\$35.00)~~ one hundred fifty thousand dollars (\$150,000) nor less than two hundred dollars (\$200.00).

- (2) ~~Notwithstanding the provisions of subdivision (1) of this subsection, if~~ If the tax produced pursuant to application of ~~calculated under this paragraph~~ subdivision exceeds the tax produced pursuant to application of ~~calculated under subdivision (4)~~ (1) of this subsection, then the tax is levied at the rate of ~~one dollar and fifty cents (\$1.50)~~ one dollar thirty-five cents (\$1.35) per one thousand dollars (\$1,000) on the greater of the following:

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

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

**SECTION 2.(b)** G.S. 105-122 reads as rewritten:

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

...

1 (b) ~~Determination of Capital Base.~~ Net Worth. – A corporation taxed under this section  
2 shall determine the total amount of its ~~issued and outstanding capital stock, surplus, and~~  
3 ~~undivided profits. No reservation or allocation from surplus or undivided profits is allowed~~  
4 ~~except as provided below:~~ net worth. The net worth of a corporation is its total assets less its  
5 total liabilities, computed in accordance with generally accepted accounting principles as of the  
6 end of the corporation's taxable year. If the corporation does not maintain its books and records  
7 in accordance with generally accepted accounting principles, then its net worth is computed in  
8 accordance with the accounting method used by the entity for federal tax purposes so long as  
9 the method fairly reflects the corporation's net worth for purposes of the tax levied by this  
10 section. A corporation's net worth is subject to the following adjustments:

11 (1) ~~Definite and accrued legal liabilities.~~ A deduction for accumulated  
12 depreciation and amortization is determined in accordance with the method  
13 used for federal tax purposes.

14 (1a) ~~Billings in excess of costs that are considered a deferred liability under the~~  
15 ~~percentage of completion method of revenue recognition.~~

16 (2) ~~Taxes accrued, dividends declared, and reserves for depreciation of tangible~~  
17 ~~assets and for amortization of intangible assets as permitted for income tax~~  
18 ~~purposes. An addition for indebtedness the corporation owes to a parent, a~~  
19 ~~subsidiary, or an affiliate. The amount added back to the corporation's net~~  
20 ~~worth may be further adjusted as follows:~~

21 a. If part of the capital of the creditor corporation is capital borrowed  
22 from a source other than a parent, a subsidiary, or an affiliate, the  
23 debtor corporation may deduct a proportionate part of the  
24 indebtedness based on the ratio of the borrowed capital of the  
25 creditor corporation to the total assets of the creditor corporation.

26 b. If part of the capital of the creditor corporation consists of  
27 indebtedness owed to a parent, a subsidiary, or an affiliate that is  
28 directly traceable to capital borrowed from a source other than a  
29 parent, a subsidiary, or an affiliate, the debtor corporation may  
30 deduct a proportionate part of the indebtedness based on the ratio of  
31 the borrowed capital of the creditor corporation to the total assets of  
32 the creditor corporation.

33 c. If the creditor corporation is taxable under this Article, the creditor  
34 corporation may deduct the indebtedness from its net worth to the  
35 extent the debtor corporation was not allowed to deduct the  
36 indebtedness.

37 (3) ~~When including deferred tax liabilities, a corporation may reduce the amount~~  
38 ~~included in its base by netting against that amount deferred tax assets. The~~  
39 ~~reduction may not decrease deferred tax liabilities below zero (0). A~~  
40 ~~corporation may deduct the cost of treasury stock.~~

41 (4) ~~Reserves for the cost of any air cleaning device or sewage or waste~~  
42 ~~treatment plant, including waste lagoons, and pollution abatement equipment~~  
43 ~~purchased or constructed and installed which reduces the amount of air or~~  
44 ~~water pollution resulting from the emission of air contaminants or the~~  
45 ~~discharge of sewage and industrial wastes or other polluting materials or~~  
46 ~~substances into the outdoor atmosphere or streams, lakes, or rivers, upon~~  
47 ~~condition that the corporation claiming such deductible liability shall furnish~~  
48 ~~to the Secretary a certificate from the Department of Environment and~~  
49 ~~Natural Resources or from a local air pollution control program for~~  
50 ~~air cleaning devices located in an area where the Environmental~~  
51 ~~Management Commission has certified a local air pollution control program~~

1 pursuant to G.S. 143-215.112 certifying that the Environmental Management  
2 Commission or local air pollution control program has found as a fact that  
3 the air cleaning device, waste treatment plant or pollution abatement  
4 equipment purchased or constructed and installed as above described has  
5 actually been constructed and installed and that such plant or equipment  
6 complies with the requirements of the Environmental Management  
7 Commission or local air pollution control program with respect to such  
8 devices, plants or equipment, that such device, plant or equipment is being  
9 effectively operated in accordance with the terms and conditions set forth in  
10 the permit, certificate of approval, or other document of approval issued by  
11 the Environmental Management Commission or local air pollution control  
12 program and that the primary purpose thereof is to reduce air or water  
13 pollution resulting from the emission of air contaminants or the discharge of  
14 sewage and waste and not merely incidental to other purposes and functions.

15 (5) Reserves for the cost of purchasing and installing equipment or constructing  
16 facilities for the purpose of recycling or resource recovering of or from solid  
17 waste or for the purpose of reducing the volume of hazardous waste  
18 generated shall be treated as deductible for the purposes of this section upon  
19 condition that the corporation claiming such deductible liability shall furnish  
20 to the Secretary a certificate from the Department of Environment and  
21 Natural Resources certifying that the Department of Environment and  
22 Natural Resources has found as a fact that the equipment or facility has  
23 actually been purchased, installed or constructed, that it is in conformance  
24 with all rules and regulations of the Department of Environment and Natural  
25 Resources, and the recycling or resource recovering is the primary purpose  
26 of the facility or equipment.

27 (6) Reserves for the cost of constructing facilities of any private or public utility  
28 built for the purpose of providing sewer service to residential and outlying  
29 areas shall be treated as deductible for the purposes of this section; the  
30 deductible liability allowed by this section shall apply only with respect to  
31 such pollution abatement plants or equipment constructed or installed on or  
32 after January 1, 1955.

33 (7) The cost of treasury stock.

34 (8) In the case of an international banking facility, the capital base shall be  
35 reduced by the excess of the amount as of the end of the taxable year of all  
36 assets of an international banking facility which are employed outside the  
37 United States over liabilities of the international banking facility owed to  
38 foreign persons. For purposes of such reduction, foreign persons shall have  
39 the same meaning as defined in G.S. 105-130.5(b)(13)d.

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

1 extent that the debt has been included in the tax base of the parent, subsidiary, or affiliated  
2 debtor corporation reporting for taxation under the provisions of this section.

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

4 (1) Affiliate. – The same meaning as specified in G.S. 105-130.2.

5 (2) Indebtedness. – All loans, credits, goods, supplies, or other capital of  
6 whatsoever nature furnished by a parent, subsidiary, or affiliated  
7 corporation, other than indebtedness endorsed, guaranteed, or otherwise  
8 supported by one of these corporations.

9 (3) Parent. – The same meaning as specified in G.S. 105-130.2.

10 (4) Subsidiary. – The same meaning as specified in G.S. 105-130.2.

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

19 (1) Statutory. – A corporation that is subject to income tax under Article 4 of  
20 this Chapter must apportion its ~~capital stock, surplus, and undivided profits~~  
21 net worth by using the fraction it applies in apportioning its income under  
22 that Article. A corporation that is not subject to income tax under Article 4  
23 of this Chapter must apportion its ~~capital stock, surplus, and undivided~~  
24 ~~profits~~ net worth by using the fraction it would be required to apply in  
25 apportioning its income if it were subject to that Article. The apportionment  
26 method set out in this subdivision is considered the statutory method of  
27 apportionment and is presumed to be the best method of determining the  
28 amount of a corporation's ~~capital stock, surplus, and undivided profits~~ net  
29 worth attributable to the corporation's business in this State.

30 (2) Alternative. – A corporation that believes the statutory apportionment  
31 method set out in subdivision (1) of this subsection subjects a greater portion  
32 of its ~~capital stock, surplus, and undivided profits~~ net worth to tax under this  
33 section than is attributable to its business in this State may make a written  
34 request to the Secretary for permission to use an alternative method. The  
35 request must set out the reasons for the corporation's belief and propose an  
36 alternative method. The corporation has the burden of establishing by clear,  
37 cogent, and convincing proof that the statutory apportionment method  
38 subjects a greater portion of the corporation's ~~capital stock, surplus, and~~  
39 ~~undivided profits~~ net worth to tax under this section than is attributable to its  
40 business in this State and that the proposed alternative method is a better  
41 method of determining the amount of the corporation's ~~capital stock, surplus,~~  
42 ~~and undivided profits~~ net worth attributable to the corporation's business in  
43 this State.

44 The Secretary must issue a written decision on a corporation's request for  
45 an alternative apportionment method. If the decision grants the request, it  
46 must describe the alternative method the corporation is authorized to use and  
47 state the tax years to which the alternative method applies. A decision may  
48 apply to no more than three tax years. A corporation may renew a request to  
49 use an alternative apportionment method by following the procedure in this  
50 subdivision. A decision of the Secretary on a request for an alternative  
51 apportionment method is final and is not subject to administrative or judicial

1 review. A corporation authorized to use an alternative method may apportion  
2 its ~~capital stock, surplus, and undivided profits~~ net worth in accordance with  
3 the alternative method or the statutory method.

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

5 (d) Tax Base and Tax Rate. – After determining the proportion of its ~~total capital stock,~~  
6 ~~surplus and undivided profits~~ net worth as set out in subsection (c1) of this section, which  
7 amount shall not be less than fifty-five percent (55%) of the appraised value as determined for  
8 ad valorem taxation of all the real and tangible personal property in this State of each  
9 corporation nor less than its total actual investment in tangible property in this State, every  
10 corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time  
11 the return is due, a franchise or privilege tax at the rate of ~~one dollar and fifty cents (\$1.50)~~ one  
12 dollar and thirty-five cents (\$1.35) per one thousand dollars (\$1,000) of the total amount of  
13 capital stock, surplus and undivided profits as provided in this section. The tax imposed in this  
14 section shall not be less than ~~thirty-five dollars (\$35.00)~~ two hundred dollars (\$200.00) and is  
15 for the privilege of carrying on, doing business, and/or the continuance of articles of  
16 incorporation or domestication of each corporation in this State. Appraised value of tangible  
17 property including real estate is the ad valorem valuation for the calendar year next preceding  
18 the due date of the franchise tax return. The term "total actual investment in tangible property"  
19 as used in this section means the total original purchase price or consideration to the reporting  
20 taxpayer of its tangible properties, including real estate, in this State plus additions and  
21 improvements thereto less reserve for depreciation as permitted for income tax purposes, and  
22 also less any indebtedness incurred and existing by virtue of the purchase of any real estate and  
23 any permanent improvements made thereon. In computing "total actual investment in tangible  
24 personal property" a corporation may deduct reserves for the entire cost of any air-cleaning  
25 device or sewage or waste treatment plant, including waste lagoons, and pollution abatement  
26 equipment purchased or constructed and installed which reduces the amount of air or water  
27 pollution resulting from the emission of air contaminants or the discharge of sewage and  
28 industrial wastes or other polluting materials or substances into the outdoor atmosphere or into  
29 streams, lakes, or rivers, upon condition that the corporation claiming this deduction shall  
30 furnish to the Secretary a certificate from the Department of Environment and Natural  
31 Resources or from a local air pollution control program for air-cleaning devices located in an  
32 area where the Environmental Management Commission has certified a local air pollution  
33 control program pursuant to G.S. 143-215.112 certifying that said Department or local air  
34 pollution control program has found as a fact that the air-cleaning device, waste treatment plant  
35 or pollution abatement equipment purchased or constructed and installed as above described  
36 has actually been constructed and installed and that the device, plant or equipment complies  
37 with the requirements of the Environmental Management Commission or local air pollution  
38 control program with respect to the devices, plants or equipment, that the device, plant or  
39 equipment is being effectively operated in accordance with the terms and conditions set forth in  
40 the permit, certificate of approval, or other document of approval issued by the Environmental  
41 Management Commission or local air pollution control program and that the primary purpose is  
42 to reduce air or water pollution resulting from the emission of air contaminants or the discharge  
43 of sewage and waste and not merely incidental to other purposes and functions. The cost of  
44 constructing facilities of any private or public utility built for the purpose of providing sewer  
45 service to residential and outlying areas is treated as deductible for the purposes of this section;  
46 the deductible liability allowed by this section applies only with respect to pollution abatement  
47 plants or equipment constructed or installed on or after January 1, 1955.

48 (d1) ~~Credits.~~—~~A corporation is allowed a credit against the tax imposed by this section~~  
49 ~~for a taxable year equal to one-half of the amount of tax payable during the taxable year under~~  
50 ~~Article 5E of this Chapter. The credit allowed by this subsection may not exceed the amount of~~

1 tax imposed by this section for the taxable year, reduced by the sum of all other credits allowed  
2 against that tax, except tax payments made by or on behalf of the taxpayer.

3 ...."

4 **SECTION 2.(c)** This section is effective for taxable years beginning on or after  
5 January 1, 2016, and for which taxes are due on or after that date.

6  
7 **PART III. REDUCE CORPORATE INCOME TAX RATE AND MODERNIZE**  
8 **CORPORATE INCOME TAX BASE**

9 **SECTION 3.1.(a)** G.S. 105-130.3 reads as rewritten:

10 **"§ 105-130.3. Corporations.**

11 A tax is imposed on the State net income of every C Corporation doing business in this  
12 State at the rate of ~~five percent (5%)~~ four and one-half percent (4.5%). An S Corporation is not  
13 subject to the tax levied in this section."

14 **SECTION 3.1.(b)** G.S. 105-130.3C is repealed.

15 **SECTION 3.1.(c)** Subsection (a) of this section is effective for taxable years  
16 beginning on or after January 1, 2016. The remainder of this section is effective when this act  
17 becomes law.

18 **SECTION 3.2.(a)** G.S. 105-130.3, as amended by Section 3.1 of this act, reads as  
19 rewritten:

20 **"§ 105-130.3. Corporations.**

21 A tax is imposed on the State net income of every C Corporation doing business in this  
22 State at the rate of ~~four and one-half percent (4.5%)~~ (4%). An S Corporation is not subject to  
23 the tax levied in this section."

24 **SECTION 3.2.(b)** This section becomes effective for taxable years beginning on or  
25 after January 1, 2017.

26 **SECTION 3.3.(a)** G.S. 105-130.5 reads as rewritten:

27 **"§ 105-130.5. Adjustments to federal taxable income in determining State net income.**

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

30 ...

31 (14) Royalty payments and interest expense required to be added by  
32 G.S. 105-130.7A, to the extent deducted in calculating federal taxable  
33 income.

34 ...

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

37 ...

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

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

48 ~~(8) The amount of losses realized on the sale or other disposition of assets not~~  
49 ~~allowed under section 1211(a) of the Code. All losses recognized on the sale~~  
50 ~~or other disposition of assets must be included in determining State net~~  
51 ~~income or loss in the year of disposition.~~



- 1           ...
- 2           (12) ~~Reasonable expenses, in excess of deductions allowed under the Code, paid~~
- 3           ~~for reforestation and cultivation of commercially grown trees; provided, that~~
- 4           ~~this deduction shall be allowed only to those corporations in which the real~~
- 5           ~~owners of all the shares of such corporation are natural persons actively~~
- 6           ~~engaged in the commercial growing of trees, or the spouse, siblings, or~~
- 7           ~~parents of such persons. Provided, further, that in no case shall a corporation~~
- 8           ~~be allowed a deduction for the same reforestation or cultivation expenditure~~
- 9           ~~more than once.~~
- 10          (13) ~~The eligible income of an international banking facility to the extent~~
- 11          ~~included in determining federal taxable income, determined as follows:~~
- 12           a.       ~~"International banking facility" shall have the same meaning as is set~~
- 13           ~~forth in the laws of the United States or regulations of the board of~~
- 14           ~~governors of the federal reserve system.~~
- 15           b.       ~~The eligible income of an international banking facility for the~~
- 16           ~~taxable year shall be an amount obtained by multiplying State taxable~~
- 17           ~~income as determined under G.S. 105-130.3 (determined without~~
- 18           ~~regard to eligible income of an international banking facility and~~
- 19           ~~allocation and apportionment, if applicable) for such year by a~~
- 20           ~~fraction, the denominator of which shall be the gross receipts for~~
- 21           ~~such year derived by the bank from all sources, and the numerator of~~
- 22           ~~which shall be the adjusted gross receipts for such year derived by~~
- 23           ~~the international banking facility from:~~
- 24               1.       ~~Making, arranging for, placing or servicing loans to foreign~~
- 25               ~~persons substantially all the proceeds of which are for use~~
- 26               ~~outside the United States;~~
- 27               2.       ~~Making or placing deposits with foreign persons which are~~
- 28               ~~banks or foreign branches of banks (including foreign~~
- 29               ~~subsidiaries or foreign branches of the taxpayer) or with other~~
- 30               ~~international banking facilities; or~~
- 31               3.       ~~Entering into foreign exchange trading or hedging~~
- 32               ~~transactions related to any of the transactions described in this~~
- 33               ~~paragraph.~~
- 34           e.       ~~The adjusted gross receipts shall be determined by multiplying the~~
- 35           ~~gross receipts of the international banking facility by a fraction the~~
- 36           ~~numerator of which is the average amount for the taxable year of all~~
- 37           ~~assets of the international banking facility which are employed~~
- 38           ~~outside the United States and the denominator of which is the~~
- 39           ~~average amount for the taxable year of all assets of the international~~
- 40           ~~banking facility.~~
- 41           d.       ~~For the purposes of this subsection the term "foreign person" means:~~
- 42               1.       ~~An individual who is not a resident of the United States;~~
- 43               2.       ~~A foreign corporation, a foreign partnership or a foreign trust,~~
- 44               ~~as defined in section 7701 of the Code, other than a domestic~~
- 45               ~~branch thereof;~~
- 46               3.       ~~A foreign branch of a domestic corporation (including the~~
- 47               ~~taxpayer);~~
- 48               4.       ~~A foreign government or an international organization or an~~
- 49               ~~agency of either, or~~
- 50               5.       ~~An international banking facility.~~

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

4 ...  
5 (15) ~~The amount paid during the income year, pursuant to 7 U.S.C. § 1445-2, as~~  
6 ~~marketing assessments on tobacco grown by the corporation in North~~  
7 ~~Carolina.~~

8 ...  
9 (18) ~~Interest, investment earnings, and gains of a trust, the settlors of which are~~  
10 ~~two or more manufacturers that signed a settlement agreement with this~~  
11 ~~State to settle existing and potential claims of the State against the~~  
12 ~~manufacturers for damages attributable to a product of the manufacturers, if~~  
13 ~~the trust meets all of the following conditions:~~

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

18 b. ~~A court of this State approves and retains jurisdiction over the trust.~~

19 e. ~~Certain portions of the distributions from the trust are made in~~  
20 ~~accordance with certifications that meet the criteria in the agreement~~  
21 ~~creating the trust and are provided by a nonprofit entity, the~~  
22 ~~governing board of which includes State officials.~~

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

28 (20) ~~Royalty payments and interest expense received from a related member who~~  
29 ~~added the payments to income under G.S. 105-130.7A for the same taxable~~  
30 ~~year.~~

31 ...  
32 (22) ~~To the extent included in federal taxable income, the amount paid to the~~  
33 ~~taxpayer during the taxable year from the Disaster Relief Reserve Fund in~~  
34 ~~the Office of State Budget and Management for hurricane relief or~~  
35 ~~assistance, but not including payments for goods or services provided by the~~  
36 ~~taxpayer.~~

37 ...  
38 (c) The following other adjustments to federal taxable income shall be made in  
39 determining State net income:

40 (1) In determining State net income, no deduction shall be allowed for annual  
41 amortization of bond premiums applicable to any bond acquired prior to  
42 January 1, 1963. The amount of premium paid on any such bond shall be  
43 deductible only in the year of sale or other disposition.

44 (2) Federal taxable income must be increased or decreased to account for any  
45 difference in the amount of depreciation, amortization, or gains or losses  
46 applicable to property which has been depreciated or amortized by use of a  
47 different basis or rate for State income tax purposes than used for federal  
48 income tax purposes prior to the effective date of this Part.

49 (3) No deduction is allowed for any direct or indirect expenses related to income  
50 not taxed under this Part; provided, no adjustment shall be made under this  
51 subsection for adjustments addressed in G.S. 105-130.5(a) and (b).

G.S. 105-130.6A applies to the adjustment for expenses related to dividends received that are not taxed under this Part.

- (4) The taxpayer shall add to federal taxable income the amount of any recovery during the taxable year not included in federal taxable income, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by this Part but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by the Code. The taxpayer may deduct from federal taxable income the amount of any recovery during the taxable year included in federal taxable income under section 111 of the Code, to the extent the taxpayer's deduction of the recovered amount in a prior taxable year reduced the taxpayer's tax imposed by the Code but, due to differences between the Code and this Part, did not reduce the amount of the taxpayer's tax imposed by this Part.
- (5) A savings and loan association may deduct interest earned on deposits at the Federal Home Loan Bank of Atlanta, or its successor, to the extent included in federal taxable income.

...."

**SECTION 3.3.(b)** G.S. 105-130.7A reads as rewritten:

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

(a) Purpose. – Royalty payments received for the use of intangible property in this State and interest expense received from a related member are income derived from doing business in this State. This section provides taxpayers with an option concerning the method by which ~~these royalties and interest expense~~ can be reported for taxation when the recipient and the payer are related members. As provided in this section, ~~these royalty and interest expense~~ payments can be either (i) deducted by the payer and included in the income of the recipient, or (ii) added back to the income of the payer and excluded from the income of the recipient. The use of the royalty and interest expense reporting option does not prevent a corporation from otherwise having a filing requirement under other provisions of this Chapter.

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

...

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

...

(c) Election. – For the purpose of computing its State net income, a taxpayer must add royalty payments and interest expense made to, or in connection with transactions with, a related member during the taxable year. This addition is not required for an amount of royalty payments or interest expense that meets any of the following conditions:

- (1) The related member includes the amount as income on a return filed under this Part for the same taxable year that the amount is deducted by the taxpayer, and the related member does not elect to deduct the amount pursuant to G.S. 105-130.5(b)(20).
- (2) The taxpayer can establish that the related member during the same taxable year directly or indirectly paid, accrued, or incurred the amount to a person who is not a related member.
- (3) The taxpayer can establish that the related member to whom the amount was paid is organized under the laws of a country other than the United States, the country has a comprehensive income tax treaty with the United States, and the country imposes a tax on the royalty income of the related member 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 3.3.(c)** This section becomes effective for taxable years beginning on or  
4 after January 1, 2016.

5  
6 **PART IV. PHASE IN SINGLE SALES FACTOR APPORTIONMENT AND USE**  
7 **MARKET-BASED SOURCING**

8 **SECTION 4.1.(a)** Effective for taxable years beginning on or after January 1,  
9 2016, G.S. 105-130.4(i) reads as rewritten:

10 "(i) All apportionable income of corporations other than public utilities, excluded  
11 corporations, and qualified capital intensive corporations shall be apportioned to this State by  
12 multiplying the income by a fraction, the numerator of which is the property factor plus the  
13 payroll factor plus ~~twice-four times~~ the sales factor, and the denominator of which is ~~four-six~~.  
14 If the sales factor does not exist, the denominator of the fraction is the number of existing  
15 factors and if the sales factor exists but the payroll factor or the property factor does not exist,  
16 the denominator of the fraction is the number of existing factors plus ~~one-three~~."

17 **SECTION 4.1.(b)** Effective for taxable years beginning on or after January 1,  
18 2017, G.S. 105-130.4(i), as amended by subsection (a) of this section, reads as rewritten:

19 "(i) All apportionable income of corporations ~~other than public utilities, excluded~~  
20 ~~corporations, and qualified capital intensive corporations~~ shall be apportioned to this State by  
21 multiplying the income by a ~~fraction, the numerator of which is the property factor plus the~~  
22 ~~payroll factor plus four times the sales factor, and the denominator of which is six. If the sales~~  
23 ~~factor does not exist, the denominator of the fraction is the number of existing factors and if the~~  
24 ~~sales factor exists but the payroll factor or the property factor does not exist, the denominator of~~  
25 ~~the fraction is the number of existing factors plus three.~~the sales factor as determined under  
26 subsection (l) of this section."

27 **SECTION 4.1.(c)** Effective for taxable years beginning on or after January 1,  
28 2017, G.S. 105-130.4(a)(4), (j), (k), and (s1), and G.S. 105-130.4(r1) as enacted by Section 4.2  
29 of this act, are repealed.

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

32 **SECTION 4.2.(a)** G.S. 105-130.4 reads as rewritten:

33 **"§ 105-130.4. Allocation and apportionment of income for corporations.**

34 (a) As used in this section, unless the context otherwise requires:

35 ...

36 (7) "Sales" means all gross receipts of the corporation except for the following  
37 receipts:

38 a. Receipts from a casual sale of property.

39 b. Receipts allocated under subsections (c) through (h) of this section.

40 c. Receipts exempt from taxation.

41 d. The portion of receipts realized from the sale or maturity of securities  
42 or other obligations that represents a return of principal.

43 e. The portion of receipts from financial swaps and other similar  
44 financial derivatives that represents the notional principal amount  
45 that generates the cash flow traded in the swap agreement.

46 f. Receipts in the nature of dividends subtracted under  
47 G.S. 105-130.5(b)(3a), (3b), and dividends excluded for federal tax  
48 purposes.

49 ...

50 ~~(4)~~(l) Sales Factor. – The sales factor is a fraction, the numerator of which is the total  
51 sales of the corporation in this State during the income year, and the denominator of which is

1 the total sales of the corporation everywhere during the income year. ~~Notwithstanding any~~  
 2 ~~other provision under this Part, the~~ The receipts from any casual sale of property shall be  
 3 excluded from both the numerator and the denominator of the sales factor. Where a corporation  
 4 is not taxable in another state on its apportionable income but is taxable in another state only  
 5 because of nonapportionable income, all sales shall be treated as having been made in this  
 6 State.

7 ~~(2)~~(11) Sales Sourcing of Sales of Tangible Personal Property. – Sales of tangible personal  
 8 property are in this State if the property is received in this State by the purchaser. In the case of  
 9 delivery of goods by common carrier or by other means of transportation, including  
 10 transportation by the purchaser, the place at which the goods are ultimately received after all  
 11 transportation has been completed shall be considered as the place at which the goods are  
 12 received by the purchaser. Direct delivery into this State by the taxpayer to a person or firm  
 13 designated by a purchaser from within or without the State shall constitute delivery to the  
 14 purchaser in this State.

15 (12) Sourcing of Other Sales. – Other sales are in this State if the taxpayer's market for  
 16 the sales is in this State. The taxpayer's market for sales is in this State if one or more of the  
 17 following applies:

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

19 a.(1) The receipts are from real or tangible personal property located in this State;  
 20 ~~or State.~~

21 b.(2) The receipts are from intangible property and are ~~received from sources~~  
 22 ~~within used in this State; or State.~~ The intangible property is used in this State  
 23 if any of the following applies:

24 a. The intangible property is used in this State. Intangible property  
 25 utilized to market a good or service to a consumer is used in this  
 26 State if the good or service is purchased by a consumer who is in this  
 27 State.

28 b. The intangible property authorized the holder to conduct a business  
 29 activity in a specific geographic area that includes all or part of this  
 30 State.

31 e.(3) The receipts are from services a service and ~~the income-producing activities~~  
 32 ~~are in this State.~~ the service is delivered to a location in this State.

33 ...

34 (r) All apportionable income of ~~an excluded corporation and of all other a public~~  
 35 ~~utilities shall be utility~~ is apportioned by multiplying the income by the sales factor as  
 36 determined under subsection (l) of this section. Sales of tangible personal property are sourced  
 37 as provided under subsection (11) of this section. Other sales are sourced to this State as  
 38 follows:

39 (1) The receipts are from real or tangible personal property located in this State.

40 (2) The receipts are from intangible property and are received from sources  
 41 within this State.

42 (3) The receipts are from services and the income-producing activities are in this  
 43 State.

44 (r1) All apportionable income of an excluded corporation is apportioned by multiplying  
 45 the income by the sales factor as determined under subsections (1), (11), and (12) of this section.

46 ...."

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

## 50 PART V. JDIG MODIFICATIONS

51 **SECTION 5.(a)** G.S. 143B-437.51 is amended by adding new subdivisions 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 one billion dollars (\$1,000,000,000) in private funds and create at least 2,500 eligible positions.
- (6b)-(6j) Reserved.
- (6k) Major market community. – A county in which the average weekly wage for all insured private employers in the county is one of the three highest in the State.
- (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 5.(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,

1 providing worker training opportunities, constructing and enhancing critical  
2 infrastructure, increasing development in strategically important industries,  
3 or increasing the State and local tax base.

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

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

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

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

13 (c) ~~Awards.~~ Award Limitations. – The following limitations apply to grants awarded  
14 under this Part:

15 (1) Maximum liability. – The maximum amount of total annual liability for  
16 grants awarded in any single calendar year under this Part, including  
17 amounts transferred to the Utility Account pursuant to G.S. 143B-437.61, is  
18 fifteen million dollars (\$15,000,000). ~~(\$15,000,000)~~ for a year in which no  
19 grants are awarded for a high-yield project and is thirty million dollars  
20 (\$30,000,000) for a year in which a grant is awarded for a high-yield project.  
21 No agreement may be entered into that, when considered together with other  
22 existing agreements governing grants awarded during a single calendar year,  
23 could cause the State's potential total annual liability for grants awarded in a  
24 single calendar year to exceed ~~this~~ the applicable amount. The Department  
25 shall make every effort to ensure that the average percentage of withholdings  
26 of eligible positions for grants awarded under this Part does not exceed the  
27 average of the range provided in G.S. 143B-437.56(a).

28 (2) Quarterly commitment limitations. – Of the amount authorized in  
29 subdivision (1) of this subsection, no more than twenty-five percent (25%),  
30 excluding roll-over amounts, may be awarded in any single calendar quarter.  
31 A roll-over amount is any amount from a previous quarter in the same  
32 calendar year that was not awarded as a grant. The limitation of this  
33 subdivision does not apply to a grant awarded to a high-yield project.

34 (3) Major market community. – The maximum percentage of the amount  
35 authorized in this subsection for grants awarded in a major market  
36 community is equal to two times the population of that county as a  
37 percentage, rounded to the nearest percent, of the total population of the  
38 State. State and county populations shall be determined at the beginning of  
39 each calendar year using the most recent population data used by the  
40 Secretary for purposes of G.S. 143B-437.08. The limitation of this  
41 subdivision does not apply to a high-yield project located in a major market  
42 community.

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

48 (1) The Committee makes an explicit finding that the designation is necessary to  
49 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 5.(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 satisfying the wage standard as set out in the table below. If the project will be located in more than one ~~development tier area,~~ area designation, the location with the highest ~~development tier area~~ designation determines the minimum number of eligible positions that must be ~~created~~ created and the applicable wage standard. The wage standard is met if the business pays an average weekly wage for all eligible positions that is equal to or greater than the percentage of the average wage for all insured private employers in the county as provided below:

<u>Development Tier Area Designation</u>	<u>Number of Eligible Positions</u>	<u>Wage Standard</u>
<u>Development Tier One</u>	<u>1025</u>	<u>100%</u>
<u>Development Tier Two</u>	<u>2050</u>	<u>110%</u>
<u>Development Tier Three</u>	<u>20200</u>	<u>115%</u>
<u>Major Market Community</u>	<u>250</u>	<u>125%</u>

...."

**SECTION 5.(d)** G.S. 143B-437.56 reads as rewritten:

"(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.~~ years. The percentage shall be no more than eighty percent (80%) for a development tier one area, no more than seventy percent (70%) for a development tier two area, no more than sixty percent (60%) for a development tier three area, and no more than fifty percent (50%) for a major market community. 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



1 minimum job creation requirement and meets all terms of the agreement. A business receiving  
2 an enhanced percentage of the withholdings of eligible positions under this subsection that fails  
3 to maintain the minimum job creation requirement or meet all terms of the agreement will be  
4 disqualified from receiving the enhanced percentage and will have the applicable percentage set  
5 forth in subsection (a) of this section applied in the year in which the failure occurs and all  
6 remaining years of the grant term.

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

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

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

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

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

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

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

39 **SECTION 5.(e)** G.S. 143B-437.62 reads as rewritten:

40 "**§ 143B-437.62. Expiration.**

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

42 **SECTION 5.(f)** This section is effective when it becomes law and applies to  
43 awards made under Part 2G of Article 10 of Chapter 143B of the General Statutes on or after  
44 that date.

## 45 **PART VI. EFFECTIVE DATE**

46 **SECTION 6.** Except as otherwise provided, this act is effective when it becomes  
47 law.  
48