

Senate PCS for HB 117:
NC Competes Act

<i>Current Law</i>	<i>Bill Summary</i>
PART I: JDIG Modifications	
Expires January 1, 2016	Extends sunset two years, January 1, 2018
Statutory Cap of \$15 million per Calendar Year: <i>current cap is based on 2013-15 biennium and is \$22.5 and the cap for 7/1/15 through 12/31/15 is \$7.5 million</i>	Retains statutory cap** Collapses current period (15-17 fiscal biennium) with period from 7/1/15-12/31/15, making the latter's \$7.5M of availability immediately available for commitment Adds additional \$5M in availability to current period High-yield project ¹ modification (see below)
Incentive Award Amount: <i>irrespective of tier, is an amount equal to 10-75% of the PIT withholdings generated by eligible, created positions</i>	Creates a tiered maximum percentage** of withholdings that can be used to calculate the JDIG incentive award amount: <ul style="list-style-type: none"> • Tier 1: 80% • Tier 2: 70% • Tier 3: 60% • Major Market Community (MMC)²: 50%
Tiered Utility Account Diversion of JDIG Award: <ul style="list-style-type: none"> • <i>Tier 1: 0%</i> • <i>Tier 2: 15%</i> • <i>Tier 3: 25%</i> 	Modifies the percentage diverted** to the Utility Account by tiers as follows: <ul style="list-style-type: none"> • Tier 1: 0% • Tier 2: 5% • Tier 3: 10% • MMC: 15% diverted to Utility Account
Minimum Job Creation: <ul style="list-style-type: none"> • <i>Tier 1: 10</i> • <i>Tier 2: 20</i> • <i>Tier 3: 20</i> 	Increases minimum job creation requirements: <ul style="list-style-type: none"> • Tier 1: 20 (current Commerce requirement for grant model) • Tier 2: 50 • Tier 3: 100 • Major Market Community: 250
No Minimum Wage Standard	Adds a wage standard that created jobs must pay an average weekly wage equal to or greater than a percentage of the average wage for all insured private employers in the county: <ul style="list-style-type: none"> • Tier 1: 100% • Tier 2: 105% • Tier 3: 110% • MMC: 120%
No Provisions for a High Yield Project	Creates special provisions for high-yield projects as follows: <ul style="list-style-type: none"> • Increases annual JDIG statutory cap from \$15 million to \$30 million in any year an award is made to a high yield project (semiannual disbursement restriction is eliminated for that project) • If a high yield project meets investment & job creation requirements and all metrics of the performance agreement for three consecutive years, its JDIG award is augmented as follows: <ul style="list-style-type: none"> ○ Calculation of award is increased to up to 100% of withholdings of created

¹ A high-yield project is a project in which a business invests at least \$750M in private funds and creates at least 2,000 eligible positions.

² A major market community is one of the three counties with the highest average weekly wage for insured private employers (currently Wake, Mecklenburg, and Durham).

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	<p style="text-align: center;">eligible positions</p> <ul style="list-style-type: none"> ○ The term of the award can be up to 20 years ○ Any applicable Utility Account diversion is eliminated 	
Cap is Available in Calendar Year	<p>Makes \$15 million annual cap available in calendar semiannual installments of \$7.5 million.** Amounts within a single calendar year not utilized in a previous period roll over to the next period. The limitation does not apply to an award made to a high-yield project. This provision addresses concerns about the distribution of JDIG awards.</p>	
Other Changes	<p>Other programmatic changes in the bill include:</p> <ul style="list-style-type: none"> ● A new prerequisite for JDIG that, for development tier 3 areas, the local governments participate and offer incentives appropriate to the project ● A new reporting requirement to list, itemized by tier, extended offers that were not accepted and the aggregate award value of the offers ● A modification to make the recapture provision for projects that are not maintained for at least 150% of the grant term mandatory for an appropriate portion of the grant amount ● A change to the employment maintenance level requirement (from the level of the year immediately preceding the base period to the greater of the employment level on date of application or date of award) 	
PART II: ONE NC Modifications		
1:1 Local Match Required (State/local)	<p>Modify the local match requirements as follows:</p> <ul style="list-style-type: none"> ● Tier 1: 3/1 ● Tier 2: 2/1 ● Tier 3: 1/1 ● MMC: 1/2 	
PART III: Corporate Income Tax		
Tax Rate: <i>2015: 5%</i> <i>2016: 4% (If trigger met; estimated to be met)</i> <i>2017: 3%(If trigger met; estimated to be met)</i>	<p>Repeal trigger, and set the tax rates in statute:</p> <ul style="list-style-type: none"> ● 4%, effective January 1, 2016 ● 3%, effective January 1, 2017 	
Tax Base: Expense Attribution <i>Cannot deduct expenses related to income that is not taxed. If it is unclear how to attribute expenses to nontaxed income, there is a general rule that 15% of expenses are related to nontaxed income.</i>	<p>Eliminate the \$11,000,000 cap on tax liability and the \$2,000,000 credit allowed for bank holding companies.</p> <p>Under current law, bank holding companies attribute up to 20% of expenses to nontaxed income. This bill does not change current law.</p>	<p>Eliminate the credit allowed for electric power holding companies. The credit is equal to ½ of its additional tax liability after expense attribution.</p>
Privilege Tax on Banks <i>\$30 for each \$1 million of total assets</i>	<p>Repeals the tax, effective July 1, 2016</p>	
Tax Base: Interest Expense	<p>Closes a loophole some corporations have attempted to use to avoid tax through</p>	

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Deduction	interest expense deductions on loans from affiliates and related members
Tax Base: Various deductions	Eliminate various deductions that appear antiquated or obsolete ³ ; the deductions allowed would conform to the deductions allowed under the Code. The deductions allowed in excess of the federal amounts, that would be eliminated by this Part, include the following: <ul style="list-style-type: none"> • Amortization of air cleaning devices • Emergency facilities acquired prior to January 1, 1955 • Reforestation and cultivation of commercially grown trees • Eligible income of an international banking facility
PART IV: Phase-In Single Sales Factor Apportionment	
Apportionment Formula: <i>Double-weighted sales factor</i>	Phase-in single sales factor ⁴ over three years: <ul style="list-style-type: none"> • 2016: three times sales • 2017: four times sales • 2018: single sales factor
Sourcing: <i>Modified cost of performance</i>	Move to market based sourcing in 2016. Language taken from Multi-State Tax Commission (MTC) model legislation. Industries currently using SSF would continue to do so, but the sales would be sourced differently. ⁵
Industry Specific Apportionment	Creates an industry specific apportionment formula for broadcasters. Conforms to the model sourcing suggested by the MTC. Apportions using an audience factor.
PART V: Franchise Tax	
Tax Rate <ul style="list-style-type: none"> • <i>\$1.50 per \$1,000</i> • <i>Minimum tax of \$35</i> 	Effective for the 2017 taxable year ⁶ : <ul style="list-style-type: none"> • Reduce rate to \$1.00 per \$1,000 • Increase minimum tax to \$200
Tax Rate on Holding Company: <ul style="list-style-type: none"> • <i>Minimum tax of \$35</i> • <i>Maximum tax of \$75,000</i> 	<ul style="list-style-type: none"> • Increase minimum tax to \$200 • Increase maximum tax to \$150,000
Tax Base <i>The higher of three bases:</i> <ul style="list-style-type: none"> • <i>Capital base</i> • <i>55% of appraised value</i> • <i>Actual investment in TPP</i> 	<ul style="list-style-type: none"> • Simplifies the capital base to make it more analogous to GAAP • Eliminates various deductions that appear to be antiquated or obsolete; same deductions eliminated from the CIT base in Part IV • Closes a loophole related to indebtedness owed to a non-corporate entity
PART VI. Individual Income Tax	
Tax Rate: <i>5.75% in 2015</i>	Reduce rate to 5.5% in 2016

³ Deductions that appear obsolete include deductions for amounts paid as a marketing assessment on tobacco grown in NC; interest, earnings, and gains of a trust re: tobacco settlement; amounts paid from Hurricane Floyd Reserve Fund; amounts paid from the Disaster Relief Reserve Fund for hurricane relief.

⁴ SSF is an increasing trend among states. More than 21 states currently have SSF. Neighboring states: SC and GA use SSF; TN just amended its formula to move from double-weighted to triple-weighted sales; VA uses SSF for manufacturing and retail.

⁵ Public utilities, excluded corporations, and a qualified capital intensive corporation currently use SSF.

⁶ Return is filed and tax is paid with the 2016 corporate income tax return

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Standard Deduction: <i>\$15,000 (MFJ); \$12,000 (H/H); \$7,500 (Single/MFS)</i>	Increase standard deduction in 2016; continue to increase in increments of \$250 for five years: <ul style="list-style-type: none"> • 2016: \$17,500 (MFJ); \$14,000 (H/H); \$8,750 (Single; MFS) • 2017: \$17,750 (MFJ); \$14,200 (H/H); \$8,875 (Single; MFS) • 2018: \$18,000 (MFJ); \$14,400 (H/H); \$9,000 (Single; MFS) • 2019: \$18,250 (MFJ); \$14,600 (H/H); \$9,125 (Single; MFS) • 2020: \$18,500 (MFJ); \$14,800 (H/H); \$9,250 (Single; MFS)
Itemized Deductions: <i>Unlimited charitable deduction Plus Mortgage Insurance & Property Taxes on Real Property, capped at \$20,000</i>	<ul style="list-style-type: none"> • Allow all itemized deductions claimed for federal income tax purposes, capped at \$20,000. Charitable contributions would be included in the cap • Effective for the 2016 taxable year • Itemized deductions that may be allowed, that are not currently allowed, include the following: <ul style="list-style-type: none"> ○ Medical and dental expenses ○ Investment interest expense ○ Job expenses and certain miscellaneous deductions ○ Casualty and theft losses
Withholding Tables <i>The withholding tables were adjusted for 2014 to reflect tax simplifications and rate reductions.</i>	Adjusts the withholding tables so that the amount withheld will approximate the amount of tax due based on a tax rate that is 0.1% greater than the rate set in G.S 105-153.7. The 2014 tax year saw a 216% increase in the number of taxpayers who filed a return with a balance due and did not remit the balance due. Based on a sampling of those returns, approximately 48% owe less than \$500, and many owed between \$10 and \$30.
PART VII. Article 5F Excise Tax	
1%, \$80 Excise Tax <i>Tax applies to mill machinery and various other M&E capitalized for tax purposes under the Code</i>	Effective October 1, 2015: <ul style="list-style-type: none"> • Increase tax rate to the State general sales tax rate; current rate is 4.75%. • Increase the maximum tax per article to \$500
PART VIII. Sales Tax Base Expansion	
Tax Rate on Boats and Aircraft: <i>3%, capped at \$1,500 per article</i>	Effective October 1, 2015: <ul style="list-style-type: none"> • Increase rate to 4.75%. • Cap tax on aircraft at \$5,000 per article; cap remains \$1,500 on boats
Additions to Sale Tax Base	Effective October 1, 2015: <ul style="list-style-type: none"> • Eliminate sales tax exemption for installation • Expand sales tax base to include repair services and maintenance services • Expand sales tax base to include pet care services and veterinary services • Expand sales tax base to include advertising services
Sales Tax Refund for Nonprofits: <i>Capped at \$31,700,000 (State) and \$13,300,000 (local) for an aggregate cap of \$45 million</i>	Phase-down the nonprofit sales tax amount that may be allowed over five years: <ul style="list-style-type: none"> • 2015: Exempt purchases, up to \$666,666,667 (equivalent to current cap of \$45m) • 2016: Exempt purchases, up to 150,000,000 • 2017: Exempt purchases, up to \$120,000,000 • 2018: Exempt purchases, up to \$90,000,000 • 2019: Exempt purchases, up to \$60,000,000 • 2020: Exempt purchases, up to \$15,000,000

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Sales Tax Exemption	Exempt from sales tax the purchase of a service contracts for a qualifying aircraft or jet engine if the contract is purchased from the manufacturer and it is purchased within 90 days of the date the aircraft is purchased. A qualifying aircraft is one with a maximum take-off weight of more than 10,000 pounds but not in excess of 20,000 pounds. A qualifying jet engine is one certified pursuant to Part 33 of Title 14 of the Code of Federal Regulations.
PART IX: Local Sales Tax Distribution	
Modify Local Sales Tax Distributions: 75%/25% <ul style="list-style-type: none"> • <i>Article 39 (1-cent) is point of collection (POC)</i> • <i>Article 40 (½-cent) is per capita and subject to an adjustment factor</i> • <i>Article 42 (½-cent) is point of collection</i> 	<p>Effective July 1, 2016, the distribution under all three articles will be as follows:</p> <ul style="list-style-type: none"> • 2016/17 – 60% POC/40% per capita • 2017/18 – 45% POC/55% per capita • 2018/19 – 30% POC/70% per capita • 2019/20 – 20% POC/80% per capita <p>Eliminate adjustment factor</p>
Local 2% Sales Tax on Food <ul style="list-style-type: none"> • <i>½ per capita, with adjustment factor</i> • <i>½ based on percentage of sales tax collected on food in the county in FY 1997-98 relative to all counties in 1997-98</i> 	Distribute in accordance with local sales tax in Articles 39, 40, and 42
Distribution between Counties and Cities in the County	No change from current law. County decides whether the net proceeds are distributed on a per capita basis or an ad valorem basis
City Hold Harmless	No change from current law. Deducted from the county’s allocation.
Public School Capital Outlay <ul style="list-style-type: none"> • <i>30% of tax collected under Article 40</i> • <i>60% of tax collected under Article 42</i> 	No change from current law. Counties must continue to use a portion of the local sales tax for public school capital outlay.
PART X: Local Option Sales Tax⁷	
Local Option Sales Tax <i>All counties have imposed a 2% LOST. This Part addresses the authority to impose LOST in addition to the 2% rate.</i> <ul style="list-style-type: none"> • Article 43: Public Transit <ul style="list-style-type: none"> ○ ½ cent for 6 counties ○ ¼ cent for 94 	<ul style="list-style-type: none"> • Cap total local sales tax rate at 2.5%, except for Durham and Orange Counties whose current local sales tax rate is 2.75%. Mecklenburg County currently imposes a 2.5% LOST. Under current law, Mecklenburg County has the authority to impose an additional ¼ cent LOST; but under this bill it could not. • Authorize a local option sales tax for education (Article 43A) • Increase authorization under Article 43 for the 94 counties to ½ cent and the authorization under Article 46 to ½ cent • Counties may enact local option sales tax under any of these authorizations in increments of ¼ cent, with the total tax rate not to exceed 2.5%

⁷ Similar to provision contained in conference report for House Bill 1224, at the end of the 2014 Legislative Session.

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<p style="text-align: center;">counties</p> <ul style="list-style-type: none"> • Article 46: ¼ cent <ul style="list-style-type: none"> ○ Any public purpose ○ 29 counties 	<ul style="list-style-type: none"> • Choices could include ½ cent for any public purpose, transit, or education OR choices could include ¼ cent for one purpose and ¼ cent for a different purpose • A county may only seek voter approval for ¼ cent in a ballot referendum. To increase the rate by ½ cent, a county would need to seek voter approval for ¼ cent in two different election periods⁸ • Referendum required for all impositions
PART XI: Miscellaneous Provisions and Effective Date	
Rule-Making	Provide Department of Revenue with expedited rulemaking, in accordance with G.S. 105-262.1, for market-based sourcing.
Rate-Making	Provide the Utilities Commission must consider the business tax changes in Part III, IV, and V of this act and adjust the rates as necessary

⁸ Elections may be held in accordance with GS 163-287. Under that statute, special elections may be held at the same time as any other State or county general election and at the same time as the primary election in an even-numbered year. In 2016, there will be three elections that meet one of these conditions.