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HOUSE BILL 142\*  
Committee Substitute Favorable 5/30/12  
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Short Title: Economic Development & Finance Changes.

(Public)

Sponsors:

Referred to:

February 21, 2011

A BILL TO BE ENTITLED

AN ACT TO PROMOTE ECONOMIC DEVELOPMENT AND TO PROVIDE FISCAL RELIEF TO CITIZENS OF THE STATE BY (1) TEMPORARILY CAPPING THE GAS TAX, (2) DELAYING THE IMPOSITION OF TOLLS ON FERRY ROUTES, (3) EXEMPTING CERTAIN MOTIONS FROM CIVIL MOTIONS FILING FEE, (4) WAIVING THE FILING FEE OTHERWISE DUE FROM UNEMPLOYED INDIVIDUALS ORGANIZING LIMITED LIABILITY COMPANIES, (5) CLARIFYING AND EXTENDING THE APPROPRIATE FILING PERIOD FOR AN ECONOMIC INCENTIVE, (6) EXPANDING THE USE OF INDUSTRIAL DEVELOPMENT FUNDS FOR CERTAIN PROJECTS, (7) MAKING A TECHNICAL CORRECTION TO THE PORT ENHANCEMENT ZONE, AND (8) EXTENDING THE LOCAL GOVERNMENT HOLD HARMLESS SUNSET FOR REPEALED REIMBURSEMENTS.

The General Assembly of North Carolina enacts:

**ONE-YEAR CAP ON MOTOR FUEL EXCISE TAX RATE**

**SECTION 1.** Notwithstanding G.S. 105-449.80(a), for the period July 1, 2012, through June 30, 2013, the motor fuel excise tax rate may not exceed thirty-seven and one-half cents (37 1/2¢) a gallon.

**DELAY FERRY TOLL COLLECTION**

**SECTION 2.** Notwithstanding Item 24 on Page K-3 of the Senate Appropriations Committee Report on House Bill 200, incorporated into S.L. 2011-145 by Section 32.4(a) of that act, the Department of Transportation, Ferry Division, shall not collect the increased tolls required by S.L. 2011-145 during the 2012-2013 fiscal year.

**EXEMPT MOTIONS TO WITHDRAW FROM CIVIL MOTIONS FILING FEE**

**SECTION 3.(a)** G.S. 7A-305(f) reads as rewritten:

"(f) For the support of the General Court of Justice, the sum of twenty dollars (\$20.00) shall accompany any filing containing one or more motions not listed in G.S. 7A-308 that is filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief either (i) the taxing of costs, including attorneys' fees-fees, (ii) a motion to withdraw as attorney or counsel of record, or (iii) a motion to withdraw condemnor's deposit in a condemnation proceeding."

**SECTION 3.(b)** G.S. 7A-306(g) reads as rewritten:

"(g) For the support of the General Court of Justice, the sum of twenty dollars (\$20.00) shall accompany any filing containing one or more motions not listed in G.S. 7A-308 that is



1 filed with the clerk. No costs shall be assessed to a motion containing as a sole claim for relief  
 2 either (i) the taxing of costs, including attorneys' fees- fees, (ii) a motion to withdraw as  
 3 attorney or counsel of record, or (iii) a motion to withdraw condemnor's deposit in a  
 4 condemnation proceeding."

5 **SECTION 3.(c)** G.S. 7A-307(a)(4) reads as rewritten:

6 "(a) In the administration of the estates of decedents, minors, incompetents, of missing  
 7 persons, and of trusts under wills and under powers of attorney, in trust proceedings under  
 8 G.S. 36C-2-203, in estate proceedings under G.S. 28A-2-4, and in collections of personal  
 9 property by affidavit, the following costs shall be assessed:

- 10 ...  
 11 (4) For the support of the General Court of Justice, the sum of twenty dollars  
 12 (\$20.00) shall accompany any filing requiring a notice of hearing and  
 13 containing one or more motions not listed in G.S. 7A-308 that is filed with  
 14 the clerk. No costs shall be assessed to a motion containing as a sole claim  
 15 for relief either (i) the taxing of costs, including attorneys' fees- fees, (ii) a  
 16 motion to withdraw as attorney or counsel of record, or (iii) a motion to  
 17 withdraw condemnor's deposit in a condemnation proceeding."

18 **SECTION 3.(d)** This section becomes effective August 1, 2012, and applies to  
 19 motions filed on or after that date.

20  
 21 **WAIVE THE FILING FEE FOR FILING ARTICLES OF ORGANIZATION WITH**  
 22 **THE SECRETARY OF STATE FOR AN UNEMPLOYED INDIVIDUAL**

23 **SECTION 4.(a)** G.S. 57C-1-22 reads as rewritten:

24 "**§ 57C-1-22. Filing, service, and copying fees.**

25 (a) ~~The~~ Except as provided in subsection (a1) of this section, the Secretary of State  
 26 shall collect the following fees when the documents described in this subsection are delivered  
 27 to the Secretary of State for filing:

	<u>Document</u>	<u>Fee</u>
28		
29	(1) Articles of organization	\$125.00
30	...	

31 (a1) The Secretary of State shall not collect the fee for delivery of articles of  
 32 organization to the Secretary of State for filing when the organizer swears or affirms, under  
 33 penalty of perjury on a form promulgated by the Secretary of State, that the organizer is an  
 34 unemployed individual residing legally in the United States and is not in the custody of any  
 35 state or federal correctional facility at the time of the filing. The penalty imposed for perjury  
 36 committed under this subsection is the same as that provided in G.S. 14-209. No individual  
 37 shall be entitled to more than one waiver from paying the filing fee. The Secretary of State may  
 38 rely upon the affidavit of the organizer in granting the waiver of the fee.

39 "...."

40 **SECTION 4.(b)** This section becomes effective August 1, 2012, and applies to  
 41 articles of organization filed on or after that date.

42  
 43 **CLARIFY AND EXTEND THE PERIOD OF TIME TO APPLY FOR A SALES TAX**  
 44 **REFUND OF AVIATION FUEL PURCHASED BY AN INTERSTATE PASSENGER**  
 45 **AIR CARRIER BETWEEN JANUARY 1, 2010, AND JUNE 30, 2011**

46 **SECTION 5.(a)** For calendar year 2010, an interstate passenger air carrier that is  
 47 eligible for a refund of sales and use taxes paid on fuel in excess of two million five hundred  
 48 thousand dollars (\$2,500,000) under G.S. 105-164.14(a1) and G.S. 105-164.14A(a)(1) is  
 49 subject to the provisions of this section, notwithstanding any provisions of G.S. 105-164.14,  
 50 G.S. 105-164.14A, or Section 4 of S.L. 2010-166 to the contrary. Notwithstanding the fact that  
 51 the first six months of 2010 are subject to G.S. 105-164.14(a1) and the last six months of 2010

1 are subject to G.S. 105-164.14A(a)(1), a taxpayer shall submit one request for a refund for the  
2 entire calendar year.

3 **SECTION 5.(b)** An interstate passenger air carrier is allowed a refund of the sales  
4 and use tax paid by it on fuel in excess of one million two hundred fifty thousand dollars  
5 (\$1,250,000) for the period January 1, 2011, through June 30, 2011. The amount of sales and  
6 use tax paid does not include a refund allowed to the interstate passenger air carrier under  
7 G.S. 105-164.14(a). A request for a refund must be in writing and must include any information  
8 and documentation required by the Secretary. The request for a refund is due before July 1,  
9 2012. Refunds applied for after the due date are barred.

10 **SECTION 5.(c)** Subsection (b) of this section is effective January 1, 2011, and  
11 applies to purchases made on or after that date. The remainder of this section is effective when  
12 it becomes law.

### 13 14 **PERMIT THE USE OF MONEYS FROM THE INDUSTRIAL DEVELOPMENT FUND** 15 **TO BE USED FOR SEWER IMPROVEMENTS IN ADJOINING COUNTIES**

16 **SECTION 6.** G.S. 143B-437.01(a) reads as rewritten:

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

- 23 (1) The funds shall be used for (i) installation of or purchases of equipment for  
24 eligible industries, (ii) structural repairs, improvements, or renovations of  
25 existing buildings to be used for expansion of eligible industries, or (iii)  
26 construction of or improvements to new or existing water, sewer, gas,  
27 telecommunications, high-speed broadband, electrical utility distribution  
28 lines or equipment, or transportation infrastructure for existing or new or  
29 proposed industrial buildings to be used for eligible industries. To be eligible  
30 for funding, the water, ~~sewer,~~ gas, telecommunications, high-speed  
31 broadband, electrical utility lines or facilities, or transportation infrastructure  
32 shall be located on the site of the building or, if not located on the site, shall  
33 be directly related to the operation of the specific eligible industrial activity.  
34 To be eligible for funding, the sewer infrastructure shall be located on the  
35 site of the building or, if not located on the site, shall be directly related to  
36 the operation of the specific eligible industrial activity, even if the sewer  
37 infrastructure is located in a county other than the county in which the  
38 building is located.

39 ...."

### 40 41 **TECHNICAL CORRECTION FOR THE PORT ENHANCEMENT ZONE** 42 **DESIGNATION**

43 **SECTION 7.(a)** G.S. 143B-437.013(a) reads as rewritten:

44 "(a) Port Enhancement Zone Defined. – A port enhancement zone is an area that meets  
45 all of the following conditions:

- 46 (1) It is comprised of part or all of one or more contiguous census tracts, census  
47 block groups, or both, in the most recent federal decennial census.  
48 (2) All of the area is located within 25 miles of a State port and is capable of  
49 being used to enhance port operations.

- 1 (3) Every census tract and census block group that comprises the area has at  
2 least eleven percent (11%) of households with incomes of fifteen thousand  
3 dollars (\$15,000) or less."

4 **SECTION 7.(b)** This section is effective for taxable years beginning on or after  
5 January 1, 2013.

6  
7 **EXTEND LOCAL GOVERNMENT HOLD HARMLESS SUNSET FOR REPEALED**  
8 **REIMBURSEMENTS**

9 **SECTION 8.** G.S. 105-521 reads as rewritten:

10 "**§ 105-521. Transitional local government hold harmless for repealed reimbursements.**

11 ...

12 (b) Distributions. – On or before August 15, 2008, and every August 15 through August  
13 15, ~~2012,2014~~, the Secretary must multiply each local government's local sales tax share by the  
14 estimated amount of replacement revenue that all local governments are expected to receive  
15 during the current fiscal year. If the resulting amount is less than one hundred percent (100%)  
16 of the local government's repealed reimbursement amount, the Secretary must pay the local  
17 government the difference, but not less than one hundred dollars (\$100.00).

18 On or before May 1 of each fiscal year through May 1, ~~2012,2014~~, the Department of  
19 Revenue and the Fiscal Research Division of the General Assembly must each submit to the  
20 Secretary and to the General Assembly a final projection of the estimated amount of  
21 replacement revenue that all local governments would be expected to receive during the  
22 upcoming fiscal year. If, after May 1 and before a distribution is made, a law is enacted that  
23 would affect the projection, an updated projection must be submitted as soon as practicable. If  
24 the Secretary does not use the lower of the two final projections to make the calculation  
25 required by this subsection, the Secretary must report the reasons for this decision to the Joint  
26 Legislative Commission on Governmental Operations within 60 days after receiving the  
27 projections.

28 ...

29 (d) Reports. – The Secretary must report to the Revenue Laws Study Committee by  
30 January 31, 2004, and each January 31 through January 31, ~~2013,2015~~, the amount distributed  
31 under this section for the current fiscal year."

32  
33 **EFFECTIVE DATE**

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