

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

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SENATE BILL 105
Appropriations/Base Budget Committee Substitute Adopted 6/22/21
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House Committee Substitute Favorable 8/9/21

Short Title: 2021 Appropriations Act.

(Public)

Sponsors:

Referred to:

February 18, 2021

A BILL TO BE ENTITLED
AN ACT TO MAKE FEE AND TAX LAW CHANGES RELEVANT TO THE 2021
APPROPRIATIONS ACT.

The General Assembly of North Carolina enacts:

SCHOOLS FOR THE DEAF/ADMINISTRATION

SECTION 7.62.(a) Article 9C of Chapter 115C of the General Statutes reads as
rewritten:

"Article 9C.

"Schools for Students with Visual and Hearing Impairments.

"Part 1. Governor Morehead School for the Blind.

**"§ 115C-150.11. State Board of Education as governing ~~agency~~-agency over the Governor
Morehead School.**

The State Board of Education shall be the sole governing agency for the Governor Morehead
School for the ~~Blind, the Eastern North Carolina School for the Deaf, and the North Carolina
School for the Deaf. Blind.~~ The Superintendent of Public Instruction through the Department of
Public Instruction shall be responsible for the administration, including appointment of staff, and
oversight of ~~a school governed by this Article,~~ the Governor Morehead School for the Blind.

"§ 115C-150.12. Applicability of Chapter.

Except as otherwise provided, the requirements of this Chapter shall apply to the ~~schools
governed by this Article,~~ Governor Morehead School for the Blind.

"§ 115C-150.13. ~~Rule making,~~ Rules and admission criteria.

(a) The State Board of Education shall adopt rules necessary for the Department of Public
Instruction to implement this ~~Article,~~ Article for the Governor Morehead School for the Blind,
including, at a minimum, rules to address eligibility for admission criteria. In determining rules
for admission criteria, the State Board of Education shall take into account the following factors:

(1) State and federal laws.

(2) Optimal academic and communicative outcomes for the child.

(3) Parental input and choice.

(4) Recommendations in a child's Individualized Education Program (IEP).

(b) Rules for the Governor Morehead School for the Blind shall be adopted in accordance
with Chapter 150B of the General Statutes.

"§ 115C-150.14. Tuition and room and board.



(a) Only children who are residents of North Carolina are entitled to free tuition and room and board at a school governed by this Article: the Governor Morehead School for the Blind.

(b) ~~A school governed by this Article~~ The Governor Morehead School for the Blind may enroll a foreign exchange student and shall charge the student the full, unsubsidized per capita cost of providing education at the school for the period of the student's attendance. ~~A school that seeks to enroll foreign exchange students under this section~~ The School shall submit a plan prior to enrolling any of those students to the State Board of Education for approval, including the proposed costs to be charged to the students for attendance and information on compliance with federal law requirements. For the purposes of this section, a foreign exchange student is a student who is domiciled in a foreign country and has come to the United States on a valid, eligible student visa.

(c) Notwithstanding subsection (b) of this section, foreign exchange students who have obtained the status of nonimmigrants pursuant to the Immigration and Nationality Act, 8 U.S.C. § 1101(a)(15)(F) may only be enrolled in ~~a school governed by this Article~~ the School in grades nine through 12 for a maximum of 12 months at the school. School.

"§ 115C-150.15. Reporting to residential schools on deaf and the Governor Morehead School for the Blind on blind children.

(a) Request for Consent. – Local superintendents shall require that the following request for written consent be presented to parents, guardians, or custodians of any ~~hearing-impaired or visually impaired~~ children no later than October 1 of each school year: "North Carolina provides ~~three a public residential schools~~ school serving visually and ~~hearing-impaired~~ students: the Governor Morehead School for the ~~Blind~~, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf-Blind. Do you consent to the release of your contact information and information regarding your child and his or her visual impairment to ~~these schools~~ this school so that you can receive more information on services offered by ~~those campuses~~ that campus?"

(b) Annual Report to ~~Residential Schools~~ the Governor Morehead School for the Blind. – Local superintendents shall report by November 30 each year the names and addresses of parents, guardians, or custodians of any ~~hearing-impaired or visually impaired~~ children who have given written consent to the directors of the Governor Morehead School for the ~~Blind~~, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf-Blind. The report shall include ~~the type of disability of each child, including whether the hearing and visual impairments range from partial to total disability, and if the child has multiple disabilities with the visual or hearing impairment not identified as the primary disability of the student.~~ The report shall also be made to the Department of Public Instruction.

(c) Confidentiality of Records. – The directors of the Governor Morehead School for the ~~Blind~~, the Eastern North Carolina School for the Deaf, and the North Carolina School for the Deaf-Blind shall treat any information reported to the ~~schools~~ School by a local superintendent under subsection (b) of this section as confidential, except that a director or the director's designee may contact the parents, guardians, or custodians of any ~~hearing-impaired or visually impaired~~ children whose information was included in the report. The information shall not be considered a public record under G.S. 132-1.

"Part 2. Schools for Deaf and Hard of Hearing Students.

"§ 115C-150.30. Definitions.

The following definitions apply in this Part:

- (1) Educational program. – The placement, services, and individualized instruction provided to a student to address the student's educational strengths, weaknesses, and objectives as part of the day program of a school for the deaf.
- (2) ENCSD. – The Eastern North Carolina School for the Deaf.
- (3) IEP. – An individualized education program, as defined in G.S. 115C-106.3.
- (4) NCSD. – North Carolina School for the Deaf.

(5) Parent. – A student's parent or legal guardian.

(6) School for the deaf. – A school for students who are deaf or hard of hearing located at either the Eastern North Carolina School for the Deaf or the North Carolina School for the Deaf.

"§ 115C-150.31. General supervision over schools for the deaf.

(a) State Board of Education Supervision. – The State Board of Education shall have general supervision over schools for the deaf in accordance with G.S. 115C-12, and shall establish approximately equivalent service areas for each school that cover the entire State. In establishing the service area for each school, the State Board shall consider both the geographic proximity to the school for the deaf and the population of the service area. The State Board shall evaluate the effectiveness of the schools for the deaf and shall, through the application of the accountability system developed under G.S. 115C-83.15 and G.S. 115C-105.35, measure the educational performance and growth of students placed in schools for the deaf. If appropriate, the Board may modify this system to adapt to the specific characteristics of these schools. The board of trustees for a school for the deaf shall be subject to rules adopted by the State Board of Education in accordance with Chapter 150B of the General Statutes.

(b) Independent Operation. – Except as otherwise provided for in this Part, the schools for the deaf shall be housed administratively within the Department of Public Instruction, but each school for the deaf shall operate independently with a board of trustees as the governing body. The Department of Public Instruction shall include schools for the deaf employees in coverage for professional liability policies purchased by the Department for its employees, and shall facilitate the purchase of other insurance policies for schools for the deaf.

"§ 115C-150.32. Board of trustees for each school for the deaf.

(a) Appointment. – Each school for the deaf shall be governed by a separate board of trustees. There shall be five voting members for each board of trustees to be appointed as follows:

(1) Two members appointed by the General Assembly upon the recommendation of the Speaker of the House of Representatives.

(2) Two members appointed by the General Assembly upon the recommendation of the President Pro Tempore of the Senate.

(3) One member appointed by the Governor.

(b) Ex Officio, Nonvoting Members. – The President of the Eastern North Carolina School for the Deaf Alumni Association or the President's designee shall be a nonvoting, ex officio member of the ENCSD Board of Trustees. The President of the North Carolina School for the Deaf Alumni Association or the President's designee shall be a nonvoting, ex officio member of the NCSD Board of Trustees.

(c) Terms of Members. – Members shall be appointed for six-year terms. Terms shall commence July 1. Members shall serve until their successors are appointed and qualified. All vacancies shall be filled by the appointing authority for the vacating member for the remainder of the unexpired term. Vacancies of members appointed by the General Assembly shall be filled as provided in G.S. 120-122.

(d) Declarations of Vacancies. – Whenever an appointed member of a board of trustees shall fail, for any reason other than ill health or service in the interest of the State or nation, to be present at three successive regular meetings of the board, his or her place as a member of the board shall be deemed vacant.

(e) Chair; Vice-Chair. –A board of trustees shall elect one of its members as chair and one of its members as vice-chair, each for a two-year term, at the first meeting occurring after July 1 in even-numbered years.

(f) Meetings. – A board of trustees shall meet at least four times a year and also at such other times as it may deem necessary. A majority of the Board shall constitute a quorum for the transaction of business. All meetings shall be subject to Article 33C of Chapter 143 of the General Statutes. The members shall receive per diem compensation and necessary travel and subsistence

1 expenses while engaged in the discharge of their official duties in accordance with the provisions
2 of G.S. 138-5.

3 (g) Procedures. – A board of trustees shall determine its own rules of procedure and may
4 delegate to committees that it creates any powers it deems appropriate.

5 (h) Code of Ethics. – A board of trustees shall adopt a resolution or policy containing a
6 code of ethics, as required by G.S. 160A-86.

7 **"§ 115C-150.33. Employees of schools for the deaf.**

8 (a) Director. – Each board of trustees of the ENCSD and NCSD, respectively, shall
9 appoint a director for the school, who shall act as secretary to the board of trustees in accordance
10 with G.S. 115C-150.32 and shall manage day-to-day operations of the school and other duties as
11 prescribed by the board of trustees. For purposes of application to other statutes in this Chapter,
12 the director shall be the equivalent of a superintendent of schools, and shall fulfill the duties of a
13 superintendent as provided in Article 18 of this Chapter.

14 (b) Director Duties. – The director shall recommend school personnel to the board of
15 trustees. The director shall supervise the administrative staff of the school, including the
16 principal, director of human resources, and director of business and finance.

17 (c) Personnel Criteria. – The board of trustees shall employ and provide salary and
18 benefits for a principal, teachers, and other employees in accordance with Article 19, Article 20,
19 Article 21, Article 21A, Article 22, and Article 23 of this Chapter. An employee hired by the
20 board of trustees shall be responsible for fulfilling the duties of that employee's position as
21 required by those Articles. All employees of a school for the deaf are employees of the State.

22 (d) Personnel Pay. – School for the deaf personnel, including teachers, instructional
23 support personnel, and other employees, shall be paid, at a minimum, in accordance with the
24 appropriate State salary schedule for local school administrative unit personnel. School for the
25 deaf personnel shall be eligible for all bonuses paid to local school administrative unit personnel
26 to the extent that the school for the deaf personnel meet all qualifications other than the employer.

27 **"§ 115C-150.34. Powers and duties.**

28 A board of trustees shall adopt rules necessary for the administration of the school for the
29 deaf to implement the requirements of this Part. Each board of trustees shall have the following
30 powers and duties:

31 (1) Sound basic education. – It shall be the duty of the board of trustees to provide
32 admitted students with the opportunity to receive a sound basic education in
33 grades kindergarten through 12, and to make all policy decisions with that
34 objective in mind, including employment decisions, budget development, and
35 other administrative actions, as directed by law. The board of trustees shall
36 comply with the requirements of Part 1 of Article 8 and Article 10A of this
37 Chapter.

38 (2) Exercise judicial functions. – The board of trustees may employ or contract
39 with private counsel to provide advice and representation for the schools for
40 the deaf. The board may institute all actions, suits, or proceedings against
41 officers, persons, or corporations, or their sureties, for the recovery,
42 preservation, and application of all money or property which may be due to or
43 should be applied to the support and maintenance of the school for the deaf.
44 In all actions brought in any court against a board of trustees, the order or
45 action of the board shall be presumed to be correct and the burden of proof
46 shall be on the complaining party to show the contrary. G.S. 114-2.3 and
47 G.S. 147-17 shall not apply to the schools for the deaf. The Attorney General
48 shall provide representation to the board of trustees of a school for the deaf
49 upon the request of that board.

50 (3) Academic program. – The board of trustees shall adopt rules governing class
51 size, the instructional calendar, the length of the instructional day, and the

- number of instructional days in each term. The board of trustees shall adopt a school calendar consisting of a minimum of 185 days or 1,025 hours of instruction covering at least nine calendar months.
- (4) School report cards. – A school for the deaf shall ensure that the report card issued for it by the State Board of Education is provided to the public. Beginning with the 2026-2027 school year, a school for the deaf shall ensure that the measures for educational performance and growth for the current and previous four school years are prominently displayed on the school website.
- (5) Standards of performance and conduct. – The board of directors shall establish policies and standards for academic performance, attendance, and conduct for students of the school for the deaf. The policies of the board of trustees shall comply with Article 27 of this Chapter.
- (6) School attendance. – Every parent, guardian, or other person in this State having charge or control of a child who is enrolled in the school for the deaf and who is less than 16 years of age shall cause such child to attend school continuously for a period equal to the time that the school for the deaf shall be in session. No person shall encourage, entice, or counsel any child to be unlawfully absent from the school for the deaf. Any person who aids or abets a student's unlawful absence from the school for the deaf shall, upon conviction, be guilty of a Class 1 misdemeanor. The principal shall be responsible for implementing such additional policies concerning compulsory attendance as shall be adopted by the board of trustees, including regulations concerning lawful and unlawful absences, permissible excuses for temporary absences, maintenance of attendance records, and attendance counseling.
- (7) Uniform Education Reporting System. – The board of trustees shall comply with the reporting requirements established by the State Board of Education in the Uniform Education Reporting System.
- (8) Education of children with disabilities. – The board of trustees shall require compliance with federal and State laws and policies relating to the education of children with disabilities for all students admitted to the schools for the deaf. An IEP shall be developed by the school for the deaf for all newly admitted students granted an educational program assignments.
- (9) Extracurricular activities. – The board of trustees shall make all rules necessary for the conducting of extracurricular activities, including a program of athletics, where desired, without assuming liability therefor; provided, that all interscholastic athletic activities shall be conducted in accordance with rules and regulations prescribed by the State Board of Education.
- (10) Fees, charges and solicitations. – The board of trustees shall adopt rules governing solicitations of, sales to, and fund-raising activities conducted by, the students and faculty members in the school, and no fees, charges, or costs shall be collected from students and school personnel without approval of the board of trustees as recorded in the minutes of said board; provided, this subdivision shall not apply to such textbooks fees as are determined and established by the State Board of Education. The board of trustees shall publish a schedule of approved fees, charges, and solicitations on the school's website by October 15 of each school year and, if the schedule is subsequently revised, within 30 days following the revision.
- (11) Federal or private funds. – The board of trustees shall have power and authority to accept, receive and administer any funds or financial assistance given, granted or provided under the provisions of the Elementary and Secondary Education Act of 1965 (Public Law 89-10, 89th Congress, HR

2362) and under the provisions of the Economic Opportunity Act of 1964 (Public Law 88-452, 88th Congress, S. 2642), or other federal acts or funds from foundations or private sources, and to comply with all conditions and requirements necessary for the receipt, acceptance and use of said funds. In the administration of such funds, the board of trustees shall have authority to enter into contracts with and to cooperate with and to carry out projects with nonpublic elementary and secondary schools, community groups and nonprofit corporations, and to enter into joint agreements for these purposes with other governing boards of public school units. The board of trustees shall furnish such information as shall be requested by the State Board of Education, from time to time, relating to any programs related or conducted pursuant to this subdivision.

(12) Educational research. – The board of trustees is authorized to sponsor or conduct educational research and special projects approved by the Department of Public Instruction and the State Board of Education that may improve the school for the deaf. Such research or projects may be conducted during the summer months and the board may use any available funds for such purposes.

(13) Anti-nepotism policies. – The board of trustees shall adopt rules requiring that before any immediate family, as defined in G.S. 115C-12.2, of any board of trustees' member or administrator, including directors, supervisors, specialists, staff officers, or principals, shall be employed or engaged as an employee, independent contractor, or otherwise by the board of trustees in any capacity, such proposed employment or engagement shall be (i) disclosed to the board of trustees and (ii) approved by the board of trustees in a duly called open-session meeting. The burden of disclosure of such a conflict of interest shall be on the applicable board member or administrator.

(14) Conduct and duties of personnel. – The board of trustees, upon the recommendation of the director, shall have full power to make rules governing the conduct of teachers, principals, and supervisors, the kind of reports they shall make, and their duties in the care of school property. Prior to the beginning of each school year, the board of trustees shall identify all reports that are required for the school year and shall, to the maximum extent possible, eliminate any duplicate or obsolete reporting requirements and consolidate remaining reporting requirements. Prior to the beginning of each school year, the board of trustees shall also identify software protocols that could be used to minimize repetitious data entry and shall make them available to teachers and other employees.

(15) Health and safety. – The board of trustees shall require that the school for the deaf meet the same health and safety standards required of a local school administrative unit. The board shall comply with the requirements of Article 25A of this Chapter, including the following:

a. The board shall ensure that the school for the deaf provides parents and guardians with information about cervical cancer, cervical dysplasia, human papillomavirus, and the vaccines available to prevent these diseases. This information shall be provided at the beginning of the school year to parents of children entering grades five through 12. This information shall include the causes and symptoms of these diseases, how they are transmitted, how they may be prevented by vaccination, including the benefits and possible side effects of vaccination, and places parents and guardians may obtain additional information and vaccinations for their children.

- b. The board shall adopt policies to ensure that students in grades nine through 12 receive information annually on the manner in which a parent may lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.
- (16) School-based mental health. – The board of trustees shall adopt a school-based mental health plan, including a mental health training program and suicide risk referral protocol, in accordance with G.S. 115C-376.5.
- (17) School safety. – The board of trustees shall comply with the requirements of Article 8C of this Chapter, including the following:
- a. School Risk Management Plan. – The board of trustees, in coordination with local law enforcement agencies, shall adopt a School Risk Management Plan (SRMP) relating to incidents of school violence. In constructing and maintaining these plans, the board of trustees shall utilize the School Risk and Response Management System established pursuant to G.S. 115C-105.49A. These plans are not considered a public record as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6.
- b. Schematic diagrams and school crisis kits. – The board of trustees shall provide schematic diagrams and keys to the main entrance of school facilities to local law enforcement agencies, in addition to implementing the provisions in G.S. 115C-105.52.
- c. School safety exercises. – At least once a year, a school for the deaf shall hold a full school-wide lockdown exercise with local law enforcement and emergency management agencies that are part of the school's SRMP.
- d. Safety information provided to the Department of Public Safety, Division of Emergency Management. – The board of trustees shall provide the following: (i) schematic diagrams, including digital schematic diagrams, and (ii) emergency response information requested by the Division for the SRMP. The schematic diagrams and emergency response information are not considered public records as the term "public record" is defined under G.S. 132-1 and shall not be subject to inspection and examination under G.S. 132-6.
- e. Anonymous tip line. – A school for the deaf shall develop and operate an anonymous tip line in accordance with G.S. 115C-105.51.
- (18) Reporting school violence. – A board of trustees shall report all acts of school violence to the State Board of Education in accordance with G.S. 115C-12(21).
- (19) Driving eligibility certificates and drivers' education. – The board of trustees shall apply the rules and policies established by the State Board of Education for issuance of driving eligibility certificates. The board of trustees shall provide drivers' education in accordance with Article 14 of this Chapter.
- (20) Instructional materials. – The board of trustees shall have the authority to select, procure, and use textbooks not adopted by the State Board of Education as provided in G.S. 115C-98(b1). The board shall have sole authority to select and procure supplementary instructional materials, whether or not the materials contain commercial advertising, pursuant to the provisions of G.S. 115C-98(b).
- (21) Policy against bullying. – A school for the deaf shall adopt a policy against bullying or harassing behavior, including cyber-bullying, in accordance with

- Article 29C of this Chapter, and shall at the beginning of each school year provide the policy to staff, students, and parents as defined in G.S. 115C-390.1(b)(8).
- (22) Religious activity and moment of silence. – The board of trustees shall comply with the requirements of Article 29D of this Chapter. To afford students and teachers a moment of quiet reflection at the beginning of each day in the public schools, to create a boundary between school time and nonschool time, and to set a tone of decorum in the classroom that will be conducive to discipline and learning, the board of trustees may adopt a policy to authorize the observance of a moment of silence at the commencement of the first class of each day in all grades in the public schools. Such a policy shall provide that the teacher in charge of the room in which each class is held may announce that a period of silence not to exceed one minute in duration shall be observed and that during that period silence shall be maintained and no one may engage in any other activities. Such period of silence shall be totally and completely unstructured and free of guidance or influence of any kind from any sources.
- (23) Display of the United States and North Carolina flags and recitation of the Pledge of Allegiance. – The board of trustees shall adopt policies to (i) require the display of the United States and North Carolina flags in each classroom, when available, (ii) require that recitation of the Pledge of Allegiance be scheduled on a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins of the flag and the Pledge of Allegiance. These policies shall not compel any person to stand, salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise available, flags shall be displayed in each classroom.
- (24) Child sexual abuse and sex trafficking training program. – The board of trustees shall adopt and implement a child sexual abuse and sex trafficking training program in accordance with G.S. 115C-375.20.
- (25) Science safety requirements. –
- a. A board of trustees shall certify annually to the State Board of Education that the school's science laboratories for high school and middle school students are equipped with appropriate personal protective equipment for students and teachers.
- b. A board of trustees shall ensure that the school for the deaf complies with all State Board of Education policies related to science laboratory safety.
- (26) Graduation projects. – A board of trustees shall not require a high school graduation project as a condition of graduation unless the board provides a method of reimbursement of up to seventy-five dollars (\$75.00) for expenses related to the high school graduation project for any student identified as an economically disadvantaged student.
- (27) Group accident and health insurance for students. – A board of trustees may purchase group accident, group health, or group accident and health insurance for students in accordance with G.S. 58-51-81.
- (28) Access for youth groups. – Schools for the deaf are encouraged to facilitate access for students to participate in activities provided by any youth group listed in Title 36 of the United States Code as a patriotic society, such as the Boy Scouts of America, and its affiliated North Carolina groups and councils, and the Girl Scouts of the United States of America, and its affiliated North Carolina groups and councils. Student participation in any activities offered

- by these organizations shall not interfere with instructional time during the school day for the purposes of encouraging civic education.
- (29) Parental notification of certain acts reported to law enforcement. – A board of trustees shall adopt a rule on the notification to parents or legal guardians of any students alleged to be victims of any act that is required to be reported to law enforcement and the superintendent under G.S. 115C-288(g).
- (30) Seclusion and restraint report. – A board of trustees shall maintain a record of incidents reported under G.S. 115C-391.1(j)(4) and shall provide this information annually to the State Board of Education.
- (31) Use of pesticides. – A board of trustees shall adopt rules that address the use of pesticides in schools. These policies shall:
- a. Require the principal or the principal's designee to annually notify the students' parents, guardians, or custodians as well as school staff of the schedule of pesticide use on school property and their right to request notification. Such notification shall be made, to the extent possible, at least 72 hours in advance of nonscheduled pesticide use on school property. The notification requirements under this subdivision do not apply to the application of the following types of pesticide products: antimicrobial cleansers, disinfectants, self-contained baits and crack-and-crevice treatments, and any pesticide products classified by the United States Environmental Protection Agency as belonging to the U.S.E.P.A. Toxicity Class IV, "relatively nontoxic" (no signal word required on the product's label).
- b. Require the use of Integrated Pest Management. As used in this sub-subdivision, "Integrated Pest Management" or "IPM" means the comprehensive approach to pest management that combines biological, physical, chemical, and cultural tactics as well as effective, economic, environmentally sound, and socially acceptable methods to prevent and solve pest problems that emphasizes pest prevention and provides a decision-making process for determining if, when, and where pest suppression is needed and what control tactics and methods are appropriate.
- (32) Arsenic-treated wood. – A board of trustees shall prohibit the purchase or acceptance of chromated copper arsenate-treated wood for future use on school grounds. A board of trustees shall seal existing arsenic-treated wood in playground equipment or establish a time line for removing existing arsenic-treated wood on playgrounds, according to the guidelines established under G.S. 115C-12(33).
- (33) Exposure to diesel exhaust fumes. – A board of trustees shall adopt rules to reduce students' exposure to diesel emissions.
- (34) Nonprofit corporations. – A board of trustees may establish, control, and operate a nonprofit corporation that is created under Chapter 55A of the General Statutes and is a tax-exempt organization under the Internal Revenue Code to further their authorized purposes. A nonprofit corporation established as provided in this subdivision shall not have regulatory or enforcement powers and shall not engage in partisan political activity or policy advocacy. A board of trustees that establishes a nonprofit corporation shall make a report annually to the Joint Legislative Education Oversight Committee.
- (35) Preschool programs. – The board of trustees may establish preschool programs within funds available for children who are deaf or hard of hearing and are at least three years old.

- (36) Rulemaking. – The board of trustees shall be exempt from Article 2A of Chapter 150B of the General Statutes.
- "§ 115C-150.35. Admissions.**
- (a) Rules. – Schools for the deaf shall admit students in accordance with eligibility criteria, standards, and procedures established through rules by the board of trustees in accordance with the requirements of this Part.
- (b) Eligibility Criteria. – Eligibility criteria shall include consideration of the following:
- (1) Evidence of hearing loss.
 - (2) State and federal laws.
 - (3) Optimal academic and communicative outcomes for the student.
 - (4) Parental input and choice.
 - (5) Student's possession of minimum daily living skills and level of functioning necessary to participate in the educational program.
 - (6) Student's ability to participate in the education program without exhibiting behavior that is disruptive to other students or criminal activity.
- (c) Procedures. – Admission procedures shall include the following:
- (1) An application process that may be directly made by a parent or legal guardian to the school or upon recommendation of a local education agency. If a student has not been evaluated by a local school administrative unit and determined to be a child with a disability, a process for the school and local school administrative unit to enter into an agreement to determine if the student is a child with a disability.
 - (2) An admissions committee to make recommendations on an admissions status that includes, but is not limited to, the following members:
 - a. A chair designated by the director of the school for the deaf.
 - b. The applicant's parent or legal guardian.
 - c. Any professionals necessary to interpret the evaluation results.
 - d. If the applicant is currently enrolled in a public school unit, a written invitation shall be extended to a representative from that public school unit to attend and participate in the evaluation.
 - (3) An admissions evaluation that uses multiple sources of information in determining eligibility, including assessments, teacher recommendations, evidence of the applicant's physical and emotional health, indications of the applicant's level of functioning, including adaptive behavior skills, and the student's current or proposed individualized education plan.
 - (4) A final admissions determination made by the director of the school, or designee.
- (d) Admission Status. – A student may be admitted in one of the following statuses:
- (1) Temporary assignment. – An applicant admitted for no more than 90 school days for the school staff to complete evaluations and gather additional information for the admissions committee to make an eligibility determination. A student admitted to a temporary assignment status is not guaranteed admission to the educational program as a student who meets the school's eligibility criteria.
 - (2) Educational program assignment. – An applicant determined to meet the eligibility criteria and granted admission to the educational program.
- (e) Disenrollment. – A student's continued enrollment in an educational program assignment status shall be subject to reevaluation by the admissions committee when determined necessary by the school to assess if the student continues to meet eligibility criteria. The disenrollment assessment shall follow the same procedures as the admissions process, and a final determination shall be made by the director, or director's designee.

(f) Free Appropriate Public Education. – The student's local school administrative unit shall have the initial responsibility of identifying and evaluating the special education needs of the student and providing a special educational program and related services in accordance with Article 9 of this Chapter. If a parent submits an application to the school for the deaf for enrollment of the parent's child in the school's educational program, and if the child is determined to meet the eligibility criteria for admission to the school's educational program, the school for the deaf is responsible for the provision of a free appropriate public education. However, a subsequent determination by the school for the deaf that the student no longer meets eligibility criteria immediately transfers the responsibility for the provision of a special educational program and related services to ensure a free appropriate public education back to the student's local school administrative unit.

(g) Mediation. – Prior to seeking a due process hearing as provided in Article 9 of this Chapter, parents are encouraged to seek mediation under Article 9 of this Chapter in resolving any dispute with regards to a student's eligibility determination or IEP.

(h) Due Process Hearing. – A parent may seek an impartial due process hearing following a final determination on a student's eligibility by the director. If the parent pursues a due process hearing to challenge the school for the deaf's ineligibility determination, the student's "stay put" placement shall not be the school for the deaf, but shall be the student's local school administrative unit.

"§ 115C-150.36. Tuition, room and board for resident students.

(a) A student who is a resident of North Carolina is entitled to free tuition for the educational program provided by the school for the deaf.

(b) A student who is a resident of North Carolina whose parent elects for the student to board at the school in order to access the educational program is entitled to free room and board.

"§ 115C-150.37. Nonresident students.

(a) For the purposes of this section, the following definitions shall apply:

(1) Foreign exchange student. – A student who is domiciled in a foreign country and has come to the United States on a valid, eligible student visa.

(2) Nonresident student. – An out-of-state student or foreign exchange student.

(3) Out-of-state student. – A student who is domiciled in a state other than North Carolina.

(b) A school for the deaf may enroll nonresident students in the educational program who otherwise meet admissions criteria established for all students. A school for the deaf shall charge the full, unsubsidized per capita cost of providing education at the school for the period of the nonresident student's attendance, including the cost of tuition, and the cost of room and board for any student whose parent elects for the student to board at the school in order to access the educational program.

(c) A school for the deaf that seeks to enroll nonresident students under this section shall submit a plan prior to enrolling any of those students to the board of trustees for approval, including the proposed costs to be charged to the nonresident students for tuition and room and board and information on compliance with federal law requirements.

"§ 115C-150.38. Reporting to schools for the deaf on deaf or hard of hearing children.

(a) Request for Consent. – Local superintendents shall require that the following request for written consent, along with any informational materials provided by the school for the deaf in the service area in which the local school administrative unit is located, be presented to parents, guardians, or custodians of any children who are deaf or hard of hearing no later than October 1 of each school year: "North Carolina provides two public schools for the deaf serving students who are deaf or hard of hearing: the Eastern North Carolina School for the Deaf and the North Carolina School for the Deaf. Do you consent to the release of your contact information and information regarding your child and his or her hearing status to these schools so that you can receive more information on services offered by those campuses?"

(b) Annual Report to Schools for the Deaf. – Local superintendents shall report by November 30 each year the names and addresses of parents, guardians, or custodians of any hearing impaired children who have given written consent to the directors of the ENCSD and the NCSD. The report shall include whether the hearing impairments range from partial to total disability and if the child has multiple disabilities with the hearing impairment not identified as the primary disability of the student. The report shall also be made to the Department of Public Instruction.

(c) Confidentiality of Records. – The directors of the ENCSD and the NCSD shall treat any information reported to the schools by a local superintendent under subsection (b) of this section as confidential, except that a director or the director's designee may contact the parents, guardians, or custodians of any deaf or hard of hearing children whose information was included in the report. The information shall not be considered a public record under G.S. 132-1.

(d) Transfer of Information. – The local superintendent, or if there is no superintendent, the staff member with the highest decision-making authority, shall share a copy of all current evaluation data and a copy of the current or proposed individualized education plan with the ENCSD and the NCSD for any child enrolled in a public school unit who has been identified as a child with a disability who is deaf or hard of hearing that has applied for admission to a school for the deaf, upon the written request of a parent, guardian, or custodian of the student.

"§ 115C-150.39. Applicability of Chapter.

Except as otherwise provided in this Part, the requirements of this Chapter shall not apply to schools for the deaf. A school for the deaf shall be considered a State agency, and shall comply with all requirements for State agencies unless otherwise specified in this Part. A school for the deaf shall not be considered a local school administrative unit."

SECTION 7.62.(b) G.S. 115C-5 reads as rewritten:

"§ 115C-5. Definitions.

As used in this Chapter unless the context requires otherwise:

...

(3a) The governing body of a public school unit is the following:

- a. For a local school administrative unit, the local board of education.
- b. For a charter school, the nonprofit corporation board of directors.
- c. For a regional school, the regional school board of directors.
- d. For a school operated under Article 7A and Part 1 of Article 9C of this Chapter, the State Board of Education.
- e. For a school operated under Article 29A of Chapter 116 of the General Statutes, the chancellor of the constituent institution.
- f. For a school for the deaf operated under Part 2 of Article 9C of this Chapter, the board of trustees.

...

(7a) Public school unit. – Any of the following:

- a. A local school administrative unit.
- b. A charter school.
- c. A regional school.
- d. A school providing elementary or secondary instruction operated by one of the following:
 1. The State Board of Education, including schools operated under Article 7A and Part 1 of Article 9C of this Chapter.
 2. The University of North Carolina under Article 29A of Chapter 116 of the General Statutes.
- e. A school for the deaf operated under Part 2 of Article 9C of this Chapter.

...."

SECTION 7.62.(c) G.S. 115C-105.51(g) reads as rewritten:

"(g) For the purposes of this section, a "public secondary school" is any of the following types of public school serving grades six or higher:

- (1) A school under the control of a local school administrative unit.
- (2) A school under the control of the State Board of Education, including schools operated under Article 7A and Part 1 of Article 9C of this Chapter.
- (3) A school under the control of The University of North Carolina.
- (4) A charter school.
- (5) A regional school.
- (6) A school for the deaf operated under Part 2 of Article 9C of this Chapter."

SECTION 7.62.(d) G.S. 126-5(c1) reads as rewritten:

"(c1) Except as to the provisions of Articles 6 and 7 of this Chapter, the provisions of this Chapter shall not apply to:

...

(8a) Employees of a regional school established pursuant to Part 10 of Article 16 of Chapter 115C of the General Statutes.

(8b) Employees of a school for the deaf governed by Part 2 of Article 9C of Chapter 115C of the General Statutes.

...."

SECTION 7.62.(e) G.S. 138-5(a) reads as rewritten:

"(a) Except as provided in subsections (c) and (f) of this section, members of State boards, commissions, committees and councils which operate from funds deposited with the State Treasurer shall be compensated for their services at the following rates:

- (1) Except as otherwise provided by this subdivision, compensation at the rate of fifteen dollars (\$15.00) per diem for each day of service. Members of the North Carolina Vocational Rehabilitation Council, the Statewide Independent Living Council, and the Commission for the Blind who are unemployed or who shall forfeit wages from other employment to attend Council or Commission meetings or to perform related duties, may receive compensation not to exceed fifty dollars (\$50.00) per diem for attending these meetings or performing related duties, as authorized by sections 105 and 705 of the Rehabilitation Act of 1973, P.L. 102-569, 42 U.S.C. § 701, et seq., as amended. Members of the Board of Trustees of the Eastern North Carolina School for the Deaf and the Board of Trustees of the North Carolina School for the Deaf may receive compensation not to exceed fifty dollars (\$50.00) per diem for attending Trustee meetings or performing related duties.
- (2) Reimbursement of subsistence expenses at the rates allowed to State officers and employees by subdivision (3) of G.S. 138-6(a).
- (3) Reimbursement of travel expenses at the rates allowed to State officers and employees by subdivisions (1) and (2) of G.S. 138-6(a).
- (4) For convention registration fees, the actual amount expended, as shown by receipt."

SECTION 7.62.(f) G.S. 150B-1(d) is amended by adding a new subdivision to read:

"(31) The Eastern North Carolina School for the Deaf and the North Carolina School for the Deaf."

SECTION 7.62.(g) Section 10 of S.L. 2013-247 is repealed.

SECTION 7.62.(h) Section 8.15(b) of S.L. 2013-360 reads as rewritten:

"**SECTION 8.15.(b)** Notwithstanding G.S. 146-30 or any other provision of law, the Department of Public Instruction shall only retain ~~all~~ proceeds generated from the rental of building space on the residential school ~~campuses~~ campus of the Governor Morehead School for the Blind. The Department of Public Instruction shall use all receipts generated from ~~these the~~

leases to staff and operate the ~~North Carolina School for the Deaf, the Eastern North Carolina School for the Deaf, and the Governor Morehead School~~. These receipts shall not be used to support administrative functions within the Department."

SECTION 7.62.(i) Notwithstanding G.S. 146-30 or any other provision of law, beginning with the 2022-2023 fiscal year, the Department of Public Instruction shall retain all proceeds generated from the rental of building space on the school campuses of the Eastern North Carolina School for the Deaf and the North Carolina School for the Deaf to be used in accordance with this subsection. The Department of Public Instruction shall allocate all receipts generated from these leases to each board of trustees in the amount generated from the individual school to supplement funds to staff and operate that school. These receipts shall not be used to support administrative functions within the Department of Public Instruction.

SECTION 7.62.(j) Notwithstanding Article 9C of Chapter 115C of the General Statutes, as amended by this act, the Department of Public Instruction may continue its administrative duties and responsibilities for the North Carolina School for the Deaf and the Eastern North Carolina School for the Deaf subject to Article 9C of Chapter 115C of the General Statutes as of June 30, 2022, until the board of trustees for each school has successfully transitioned into the administrative role required by this act, but in no event later than October 1, 2022.

SECTION 7.62.(k) By May 1, 2022, the General Assembly and the Governor shall appoint the initial members of the boards of trustees for the North Carolina School for the Deaf and the Eastern North Carolina School for the Deaf to take office effective July 1, 2022. Notwithstanding G.S. 115C-150.32, as enacted by this act, of the members appointed by the General Assembly in 2022, the General Assembly shall appoint one of the members recommended by the Speaker of the House of Representatives and one of the members recommended by the President Pro Tempore of the Senate to a two-year term of office and one of the members recommended by the Speaker of the House of Representatives and one of the members recommended by the President Pro Tempore of the Senate to a four-year term of office. The member appointed by the Governor in 2022 shall be appointed to a six-year term of office. Upon the expiration of the initial terms appointed in 2022, all subsequent appointments by all appointing entities shall be for a six-year term of office, as provided in G.S. 115C-150.32, as enacted by this act.

SECTION 7.62.(l) Notwithstanding G.S. 115C-150.32(f), as enacted by this act, following the appointment of a majority of members of the boards of trustees of each school for the deaf, as provided in subsection (a) of this section, the director of each school for the deaf shall call an initial meeting of each board.

SECTION 7.62.(m) The Department of Public Instruction shall, in collaboration with the personnel from the North Carolina School for the Deaf and the Eastern North Carolina School for the Deaf, develop a transition plan for the change in administration of the schools for the deaf for students who are deaf or hard of hearing in accordance with the requirements of this act to be effective July 1, 2022. By December 15, 2021, the Department of Public Instruction shall report to the Joint Legislative Education Oversight Committee on the plan for transition in administration of the schools for the deaf, including any legislative recommendations necessary to effectuate the transition.

SECTION 7.62.(n) Subsections (a) through (j) of this section become effective July 1, 2022. The remainder of this section is effective the date this act becomes law.

FEE AUTHORITY FOR STATE PHYTOSANITARY CERTIFICATE

SECTION 10.2.(a) G.S. 106-420 reads as rewritten:

"§ 106-420. Authority of Board of Agriculture to adopt regulations.

The Board of Agriculture is hereby authorized to adopt reasonable regulations to implement and carry out the purposes of this Article as to eradicate, repress and prevent the spread of plant

pests (i) within the State, (ii) from within the State to points outside the State, and (iii) from outside the State to points within the State. The Board of Agriculture shall adopt regulations for eradicating such plant pests as it may deem capable of being economically eradicated, for repressing such as cannot be economically eradicated, and for preventing their spread within the State. Regulations may provide for quarantine of areas. It may also adopt reasonable regulations for preventing the introduction of dangerous plant pests from without the State, and for governing common carriers in transporting plants, articles or things liable to harbor such pests into, from and within the State. The Board is authorized, in order to control plant pests, to adopt regulations governing the inspection, certification and movement of nursery stock, (i) into the State from outside the State, (ii) within the State, and (iii) from within the State to points outside the State. The Board is further authorized to prescribe and collect a schedule of fees to be collected for its nursery inspection, nursery dealer certification, narcissus bulb inspection, plant pest inspection, phytosanitary certification, and plant pest certification activities."

SECTION 10.2.(b) G.S. 150B-1(d) reads as rewritten:

"(d) Exemptions from Rule Making. – Article 2A of this Chapter does not apply to the following:

...

(26) The Board of Agriculture in the Department of Agriculture and Consumer Services with respect to the following:

...

d. Fees for State phytosanitary certificates.

...."

EROSION AND SEDIMENTATION FEE CHANGES

SECTION 12.10A.(a) G.S. 113A-54.2(a) reads as rewritten:

"(a) An application and compliance fee of ~~sixty-five dollars (\$65.00)~~ one hundred fifty dollars (\$150.00) per acre of disturbed land shown on an erosion and sedimentation control plan or of land actually disturbed during the life of the project shall be charged for the review of an erosion and sedimentation control plan and related compliance activities under this Article."

SECTION 12.10A.(b) G.S. 113A-60(d) reads as rewritten:

"(d) A local government may submit to the Commission for its approval a limited erosion and sedimentation control program for its jurisdiction that grants the local government the responsibility only for the assessment and collection of fees and for the inspection of land-disturbing activities within the jurisdiction of the local government. The Commission shall be responsible for the administration and enforcement of all other components of the erosion and sedimentation control program and the requirements of this Article. The local government may adopt ordinances and regulations necessary to establish a limited erosion and sedimentation control program. An ordinance adopted by a local government that establishes a limited program shall conform to the minimum requirements regarding the inspection of land-disturbing activities of this Article and the rules adopted pursuant to this Article regarding the inspection of land-disturbing activities. The local government shall establish and collect a fee to be paid by each person who submits an erosion and sedimentation control plan to the local government. The amount of the fee shall be an amount equal to eighty percent (80%) of the amount established by the Commission pursuant to G.S. 113A-54.2(a) plus any amount that the local government requires to cover the cost of inspection and program administration activities by the local government. The total fee shall not exceed ~~one hundred dollars (\$100.00)~~ two hundred thirty dollars (\$230.00) per acre. A local government that administers a limited erosion and sedimentation control program shall pay to the Commission the portion of the fee that equals eighty percent (80%) of the fee established pursuant to G.S. 113A-54.2(a) to cover the cost to the Commission for the administration and enforcement of other components of the erosion and sedimentation control program. Fees paid to the Commission by a local government shall be

deposited in the Sedimentation Account established by G.S. 113A-54.2(b). A local government that administers a limited erosion and sedimentation control program and that receives an erosion control plan and fee under this subsection shall immediately transmit the plan to the Commission for review. A local government may create or designate agencies or subdivisions of the local government to administer the limited program. Two or more units of local government may establish a joint limited program and enter into any agreements necessary for the proper administration of the limited program. The resolutions establishing any joint limited program must be duly recorded in the minutes of the governing body of each unit of local government participating in the limited program, and a certified copy of each resolution must be filed with the Commission. Subsections (b) and (c) of this section apply to the approval and oversight of limited programs."

SECTION 12.10A.(c) This section is effective when it becomes law.

CLARIFYING DUTIES OF COURT OF APPEALS DOCUMENT MANAGEMENT SHOP

SECTION 16.12.(a) G.S. 7A-20(b) reads as rewritten:

"(b) Subject to approval of the Supreme Court, the Court of Appeals shall promulgate from time to time a fee bill for services rendered by the clerk, and such fees shall be remitted to the State Treasurer. Charges to litigants for document management and the reproduction of appellate records and briefs shall be fixed by rule of the Supreme Court and remitted to the Appellate Courts Printing and Computer Operations Fund established in G.S. 7A-343.3. The operations of the Court of Appeals shall be subject to the oversight of the State Auditor pursuant to Article 5A of Chapter 147 of the General Statutes."

SECTION 16.12.(b) G.S. 7A-343.3 reads as rewritten:

"§ 7A-343.3. Appellate Courts Printing and Computer Operations Fund.

The Appellate Courts Printing and Computer Operations Fund is established within the Judicial Department as a nonreverting, interest-bearing special revenue account. Accordingly, interest and other investment income earned by the Fund shall be credited to it. All moneys collected through charges to litigants for document management and the reproduction of appellate records and briefs under G.S. 7A-11 and G.S. 7A-20(b) shall be remitted to the State Treasurer and held in this Fund. Moneys in the Fund shall be used to support the ~~print-shop~~ document management shop operations of the Supreme Court and the Court of Appeals, including personnel, maintenance, and capital costs. The Judicial Department may create and maintain receipt-supported positions for these purposes but shall report to the Chairs of the Senate and House of Representatives Appropriations Subcommittees on Justice and Public Safety prior to creating such new positions."

SECTION 16.12.(c) This section becomes effective October 1, 2021, and applies to services rendered on or after that date.

REGULATORY FEE AND INSURANCE REGULATORY FUND

SECTION 30.1.(a) Notwithstanding the provisions of G.S. 58-6-25(b), the percentage rate to be used in calculating the insurance regulatory charge under G.S. 58-6-25(b) is five percent (5%) for the 2022 calendar year.

SECTION 30.1.(b) G.S. 58-6-25 reads as rewritten:

"§ 58-6-25. Insurance regulatory charge.

...

(b) Rates. – The rate of the charge for each taxable year shall be six and one-half percent (6.5%). When the Department prepares its budget request for each upcoming fiscal year, the Department shall propose a percentage rate of the charge levied in this section. The Governor shall submit that proposed rate to the General Assembly each fiscal year. It is the intent of the General Assembly ~~(i)~~ that the percentage rate not exceed the rate necessary to generate funds

sufficient to defray the estimated cost of the operations of the Department for each upcoming fiscal year, including a reasonable margin for a reserve fund, and (ii) ~~that the amount of the reserve not exceed one-third of the estimated cost of operating the Department for each upcoming fiscal year.~~ that shall be used to provide for unanticipated expenditures requiring a budget adjustment as authorized by G.S. 143C-6-4. In calculating the amount of the reserve, the General Assembly shall consider all relevant factors that may affect the cost of operating the Department or a possible unanticipated increase or decrease in North Carolina premiums or other charge revenue.

...
(d) Use of Proceeds. – The Insurance Regulatory Fund is created ~~in the State treasury, under the control of the Office of State Budget and Management. The~~ as an interest-bearing special fund to which the proceeds of the charge levied in this section and all fees collected under Articles 69 through 71 of this Chapter and under Articles 9 and 9C of Chapter 143 of the General Statutes shall be ~~credited to the Fund. The Fund shall be placed in an interest-bearing account and any interest or other income derived from the Fund shall be credited to the Fund.~~ credited. Moneys in the Fund may be spent only pursuant to appropriation by the General Assembly Assembly, and in accordance with the line item budget enacted by the General Assembly. ~~The~~ the Fund is subject to the provisions of the State Budget Act, ~~except that no unexpended surplus of the Fund shall revert to the General Fund. Act.~~ All money credited to the Fund shall be used to reimburse the General Fund for the following:

...."

PERSONAL INCOME TAX REDUCTION

SECTION 42.1.(a) G.S. 105-153.7(a) reads as rewritten:

"(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 one-quarter percent (5.25%)~~ four and ninety-nine hundredths percent (4.99%) of the taxpayer's North Carolina taxable income."

SECTION 42.1.(b) G.S. 105-153.5(a)(1) reads as rewritten:

"(1) Standard deduction amount. – The standard deduction amount is zero for a person who is not eligible for a standard deduction under section 63 of the Code. For all other taxpayers, the standard deduction amount is equal to the amount listed in the table below based on the taxpayer's filing status:

Filing Status	Standard Deduction
Married, filing jointly/surviving spouse	\$21,500 <u>\$25,500</u>
Head of Household	16,125 <u>19,125</u>
Single	10,750 <u>12,750</u>
Married, filing separately	10,750 <u>12,750</u> ."

SECTION 42.1.(c) This section is effective for taxable years beginning on or after January 1, 2022.

ELIMINATE TAX ON MILITARY PENSION INCOME

SECTION 42.1A.(a) G.S. 105-153.5(b) reads as rewritten:

"(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

...

(5a) The amount received during the taxable year from the United States government for the payments listed in this subdivision. Amounts deducted under this subdivision may not also be deducted under subdivision (5) of this subsection. The payments are:

- a. Retirement pay for service in the Armed Forces of the United States to a retired member that meets either of the following:
1. Served at least 20 years.
 2. Medically retired under 10 U.S.C. Chapter 61. This deduction does not apply to severance pay received by a member due to separation from the member's armed forces.
- b. Payments of a Plan defined in 10 U.S.C. § 1447 to a beneficiary of a retired member eligible to deduct retirement pay under sub-subdivision a. of this subdivision.

...."

SECTION 42.1A.(b) This section is effective for taxable years beginning on or after January 1, 2021.

LIVING ORGAN DONOR PROTECTIONS

SECTION 42.1B.(a) G.S. 58-3-25 is amended by adding a new subsection to read:

"(d) No insurer shall refuse to insure or to continue to insure an individual; limit the amount, extent, or kind of coverage available to an individual; charge an individual a different amount for the same coverage; or otherwise discriminate against an individual in the offering, issuance, cancellation, price, or conditions of a policy, or in the amount of coverage provided under a policy, based solely and without any additional actuarial risks on the status of an individual as a living organ donor. This subsection shall apply to health benefit plans and life, accident and health, disability, disability income, and long-term care insurance policies. For the purposes of this subsection, the phrase "a living organ donor" shall mean a living individual who donates one or more of that individual's human organs, including bone marrow, to be medically transplanted into the body of another individual."

SECTION 42.1B.(b) G.S. 131E-294(4) reads as rewritten:

"(4) Antidiscrimination ~~(G.S. 58-3-25(b) and (c), (G.S. 58-3-25, 58-3-120, 58-63-15(7), and 58-67-75);~~"

SECTION 42.1B.(c) Part 2 of Article 4 of Subchapter I of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-153.11. Credit for live organ donation.

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

- (1) Human organ. – Human bone marrow or any organ of a human, including the intestine, kidney, liver, lung, or pancreas.
- (2) Live organ donation. – A donation by a living individual of one or more of the individual's human organs to another human to be transplanted using a medical procedure to the body of another individual.
- (3) Live organ donation expenses. – The total amount of the expenses listed in this subdivision that are incurred by the taxpayer, that are directly related to a live organ donation, and that are not reimbursed to the taxpayer by any person. An expense is "directly related" if it is incurred due to a live organ donation procedure or due to evaluation, recovery, follow-up visits, or rehospitalization associated with a live organ donation procedure. The expenses are:
 - a. Lost wages.
 - b. Transportation, lodging, and meals.

(b) Credit. – A taxpayer who makes a live organ donation or who is allowed to claim as a dependent a person who makes a live organ donation is allowed a credit against the tax imposed by this Part equal to the lesser of the live organ donation expenses or five thousand dollars (\$5,000). For the purposes of this section, "dependent" means a qualifying child or qualifying relative as defined in section 152 of the Code.

(c) Limitation. – The credit allowed under this section may not exceed the amount of tax imposed by this Part for the taxable year reduced by the sum of all other credits allowable, except tax payment made by or on behalf of the taxpayer.

(d) Carryforward. – Any unused portion of a credit allowed in this section may be carried forward for the succeeding five years."

SECTION 42.1B.(d) G.S. 105-153.5(a) reads as rewritten:

"(a) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may deduct from adjusted gross income either the standard deduction amount provided in subdivision (1) of this subsection or the itemized deduction amount provided in subdivision (2) of this subsection. The deduction amounts are as follows:

...

(2) Itemized deduction amount. – An amount equal to the sum of the items listed in this subdivision. The amounts allowed under this subdivision are not subject to the overall limitation on itemized deductions under section 68 of the Code:

...

c. Medical and Dental Expense. – The amount allowed as a deduction for medical and dental expenses under section 213 of the Code for that taxable year. No deduction is allowed for live organ donation expenses for which a credit was taken under G.S. 105-153.11.

...."

SECTION 42.1B.(e) Article 2 of Chapter 126 of the General Statutes is amended by adding a new section to read:

"§ 126-8.6. Paid leave for State employees and State-supported personnel for organ donation.

(a) Full-Time Employees. – The State Human Resources Commission shall adopt rules and policies to provide that a permanent, full-time State employee may take, in addition to any other leave available to the employee, up to (i) 30 days of paid leave for the purposes of serving as a living organ donor and (ii) seven days for serving as a bone marrow donor. The employee must have been continuously employed by the State for at least 12 months immediately preceding the first request for paid organ or bone marrow donation leave.

(b) Part-Time Employees. – The State Human Resources Commission shall adopt rules and policies to provide that a permanent, part-time State employee may take, in addition to any other leave available to the employee, a prorated amount of up to (i) 30 days of paid leave for the purposes of serving as a living organ donor and (ii) seven days for serving as a bone marrow donor. The employee must have been continuously employed by the State for at least 12 months immediately preceding the first request for paid organ or bone marrow donation leave.

(c) Program Requirements. – The paid leave for organ or bone marrow donation authorized by this section:

(1) Is available without exhaustion of the employee's sick and vacation leave.

(2) Is in addition to, and not in lieu of, shared leave under G.S. 126-8.3, or other leave authorized by federal or State law.

(3) May not be used for retirement purposes.

(4) Has no cash value upon termination from employment.

(d) Applicability. – This section applies to all (i) State employees and (ii) State-supported personnel, with the appropriate governing board adopting rules and policies to provide paid leave for organ donation to its employees as provided by this section.

(e) Reporting. – By April 1, 2022, and then annually thereafter, the State Human Resources Commission, the State Board of Education, the State Board of Community Colleges, and all State agencies, departments, and institutions shall annually report to the Office of State Human Resources on the paid organ donation leave program."

1 **SECTION 42.1B.(f)** G.S. 126-5 is amended by adding a new subsection to read:
2 "(c17) The provisions of G.S. 126-8.6 shall apply to all State employees, public school
3 employees, and community college employees."

4 **SECTION 42.1B.(g)** Subsections (a) and (b) of this section are effective 30 days
5 after this act becomes law and apply to insurance contracts issued, renewed, or amended on or
6 after that date. Subsections (c) and (d) of this section are effective for taxable years beginning on
7 or after January 1, 2022. Except as otherwise provided, this section is effective when it becomes
8 law.
9

10 **CORPORATE INCOME TAX REDUCTION**

11 **SECTION 42.2.(a)** Effective for taxable years beginning on or after January 1, 2024,
12 G.S. 105-130.3 reads as rewritten:

13 **"§ 105-130.3. Corporations.**

14 A tax is imposed on the State net income of every C Corporation doing business in this State
15 at the rate of ~~two and one-half percent (2.5%).~~ two and one-quarter percent (2.25%). An S
16 Corporation is not subject to the tax levied in this section."

17 **SECTION 42.2.(b)** Effective for taxable years beginning on or after January 1, 2025,
18 G.S. 105-130.3, as amended by subsection (a) of this section, reads as rewritten:

19 **"§ 105-130.3. Corporations.**

20 A tax is imposed on the State net income of every C Corporation doing business in this State
21 at the rate of ~~two and one-quarter percent (2.25%).~~ one and ninety-nine hundredths percent
22 (1.99%). An S Corporation is not subject to the tax levied in this section."
23

24 **FRANCHISE TAX REDUCTION AND SIMPLIFICATION**

25 **SECTION 42.3.(a)** G.S. 105-122(d) reads as rewritten:

26 "(d) Tax Base. – A corporation's tax base is the ~~greatest of the following:~~

- 27 (1) ~~The proportion of its net worth as set out in subsection (c1) of this section.~~
28 (2) ~~Fifty-five percent (55%) of the corporation's appraised value as determined~~
29 ~~for ad valorem taxation of all the real and tangible personal property in this~~
30 ~~State. For purposes of this subdivision, the appraised value of tangible~~
31 ~~property, including real estate, is the ad valorem valuation for the calendar~~
32 ~~year next preceding the due date of the franchise tax return.~~
33 (3) ~~(Effective for taxable years beginning on or after January 1, 2020, and~~
34 ~~applicable to the calculation of franchise tax reported on the 2019 and later~~
35 ~~corporate income tax returns) The corporation's total actual investment in~~
36 ~~tangible property in this State. For purposes of this subdivision, the total actual~~
37 ~~investment in tangible property in this State is the total original purchase price~~
38 ~~or consideration to the reporting taxpayer of its tangible properties, including~~
39 ~~real estate, in this State plus additions and improvements thereto less (i)~~
40 ~~reserve for depreciation as permitted for income tax purposes and (ii) any~~
41 ~~indebtedness specifically incurred and existing solely for and as the result of~~
42 ~~the purchase of any real estate and any permanent improvements made on the~~
43 ~~real estate."~~

44 **SECTION 42.3.(b)** G.S. 105-114.1(b) reads as rewritten:

45 "(b) Controlled Companies. – If a corporation or an affiliated group of corporations owns
46 more than fifty percent (50%) of the capital interests in a noncorporate limited liability company,
47 the corporation or group of corporations must include in its ~~three tax bases~~ base pursuant to
48 G.S. 105-122 the same percentage of ~~(i) the noncorporate limited liability company's net worth;~~
49 ~~(ii) fifty-five percent (55%) of the noncorporate limited liability company's appraised ad valorem~~
50 ~~tax value of property; and (iii) the noncorporate limited liability company's actual investment in~~
51 ~~tangible property in this State, as appropriate.~~ worth."

1 **SECTION 42.3.(c)** G.S. 105-120.2(b) reads as rewritten:

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

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

8 ~~(2) If the tax calculated under this subdivision exceeds the tax calculated under~~
9 ~~subdivision (1) of this subsection, then the tax is levied at the rate of one dollar~~
10 ~~and fifty cents (\$1.50) per one thousand dollars (\$1,000) on the greater of the~~
11 ~~following:~~

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

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

19 **SECTION 42.3.(d)** This section is effective for taxable years beginning on or after
20 January 1, 2023, and applicable to the calculation of franchise tax reported on the 2022 and later
21 corporate income tax return.

22
23 **CONFORM TO FEDERAL TAX TREATMENT FOR PANDEMIC-RELATED**
24 **ASSISTANCE/IRC UPDATE**

25 **SECTION 42.4.(a)** G.S. 105-228.90(b)(7) reads as rewritten:

26 "(7) Code. – The Internal Revenue Code as enacted as of ~~May 1, 2020, April 1,~~
27 ~~2021,~~ including any provisions enacted as of that date that become effective
28 either before or after that date."

29 **SECTION 42.4.(b)** Effective for tax years beginning on or after January 1, 2020,
30 G.S. 105-153.5(c2)(20) and G.S. 105-130.5(a)(32) are repealed.

31 **SECTION 42.4.(c)** G.S. 105-153.5(a)(2) reads as rewritten:

32 "(2) Itemized deduction amount. – An amount equal to the sum of the items listed
33 in this subdivision. The amounts allowed under this subdivision are not
34 subject to the overall limitation on itemized deductions under section 68 of
35 the Code:

36 a. Charitable Contribution. – The amount allowed as a deduction for
37 charitable contributions under section 170 of the Code for that taxable
38 ~~year-year,~~ subject to the following provisions:

39 1. Distributions from IRAs. – For taxable years 2014 through
40 2018, a taxpayer who elected to take the income exclusion
41 under section 408(d)(8) of the Code for a qualified charitable
42 distribution from an individual retirement plan by a person
43 who has attained the age of 70 1/2 may deduct the amount that
44 would have been allowed as a charitable deduction under
45 section 170 of the Code had the taxpayer not elected to take the
46 income exclusion.

47 2. Charitable Giving During COVID-19. – For taxable ~~year 2020,~~
48 ~~years 2020 and 2021,~~ notwithstanding ~~G.S. 105-228.90(b)(7),~~
49 ~~G.S. 105-228.90(b)(7) and~~ for purposes of this ~~sub-subdivision~~
50 ~~sub-sub-subdivision,~~ the term "Code" means the Internal
51 Revenue Code as enacted as of January 1, 2020. For taxable

years beginning on or after January 1, 2021, a taxpayer may only carry forward the charitable contributions from taxable ~~year 2020~~ years 2020 and 2021 that exceed the applicable percentage limitation for the 2020 and 2021 taxable ~~year~~ years allowed under this ~~sub-subdivision~~ sub-sub-subdivision. The purpose for defining the Internal Revenue Code differently for the 2020 and 2021 taxable ~~year~~ years is to decouple from the modification of limitations on charitable contributions ~~during 2020~~ allowed under section 2205 of the CARES Act ~~and section 213 of the Consolidated Appropriations Act, 2021~~.

- b. Mortgage Expense and Property Tax. – The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount allowed as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. For taxable years 2014 through ~~2020, 2021~~, the amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence shall not include the amount for mortgage insurance premiums treated as qualified residence interest. The amount allowed under this sub-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 42.4.(d) G.S. 105-153.5(c2) reads as rewritten:

"(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer must make the following adjustments to the taxpayer's adjusted gross income:

- (1) For taxable years 2014 through ~~2020, 2025~~, the taxpayer must add the amount excluded from the taxpayer's gross income for the discharge of qualified principal residence indebtedness under section 108 of the Code. The purpose of this subdivision is to decouple from the income exclusion available under federal tax law. If the taxpayer is insolvent, as defined in section 108(d)(3) of the Code, then the addition required under this subdivision is limited to the amount of discharge of qualified principal residence indebtedness excluded from adjusted gross income under section 108(a)(1)(E) of the Code that exceeds the amount of discharge of indebtedness that would have been excluded under section 108(a)(1)(B) of the Code.

...

- (18) For taxable ~~year 2020~~ years 2020 through 2025, a taxpayer must add the amount excluded from the taxpayer's gross income for payment by an employer, whether paid to the taxpayer or to a lender, of principal or interest on any qualified education loan, as defined in section 221(d)(1) of the Code,

incurred by the taxpayer for education of the taxpayer. The purpose of this subdivision is to decouple from the exclusion for certain employer payments of student loans under section 2206 of the CARES ~~Act~~Act or under the Consolidated Appropriations Act, 2021.

- (19) For taxable ~~year 2020~~years beginning on or after January 1, 2020, a taxpayer must add the amount excluded from the taxpayer's gross income under section 62(a)(22) of the Code. The purpose of this subdivision is to decouple from the allowance of a partial above-the-line deduction of qualified charitable contributions under section 2204 of the CARES ~~Act~~Act and under sections 212 and 213 of the Consolidated Appropriations Act, 2021.

...

- (21) For taxable years 2021 and 2022, a taxpayer must add an amount equal to the amount by which the taxpayer's deduction under section 274(n) of the Code exceeds the deduction that would have been allowed under the Internal Revenue Code as enacted as of May 1, 2020. The purpose of this subdivision is to decouple from the increased deduction under the Consolidated Appropriations Act, 2021, for business-related expenses for food and beverages provided by a restaurant.

- (22) For taxable years 2021 through 2025, a taxpayer must add the amount excluded from the taxpayer's gross income for the discharge of a student loan under section 108(f)(5) of the Code. The purpose of this subdivision is to decouple from the exclusion from income for the discharge of a student loan under section 9675 of the American Rescue Plan Act of 2021."

SECTION 42.4.(e) Except as otherwise provided, this section is effective when it becomes law.

REDUCE IMPACT OF FEDERAL SALT CAP BY ALLOWING CERTAIN PASS-THROUGHS TO ELECT TO PAY TAX AT THE ENTITY LEVEL

SECTION 42.5.(a) G.S. 105-131(b) reads as rewritten:

- "(b) For the purpose of this Part, unless otherwise required by the context:

...

- (11) "Taxed S Corporation" means an S Corporation for which a valid election under G.S. 105-131.1A(a) is in effect."

SECTION 42.5.(b) G.S. 105-131.1 reads as rewritten:

"§ 105-131.1. Taxation of an S Corporation and its shareholders.

(a) An S Corporation shall not be subject to the tax levied under G.S. 105-130.3. A taxed S Corporation shall be subject to tax under G.S. 105-131.1A.

(b) ~~Each~~ Except with respect to a taxed S Corporation, each shareholder's pro rata share of an S Corporation's income attributable to the State and each resident shareholder's pro rata share of income not attributable to the State, shall be taken into account by the shareholder in the manner and subject to the adjustments provided in Parts 2 and 3 of this Article and section 1366 of the Code and shall be subject to the tax levied under Parts 2 and 3 of this Article."

SECTION 42.5.(c) Part 1A of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-131.1A. Taxation of S Corporation as a taxed pass-through entity.

(a) Taxed S Corporation Election. – An S Corporation may elect, on its timely filed annual return required under G.S. 105-131.7, to have the tax under this Article imposed on the S Corporation for any taxable period covered by the return. An S Corporation may not revoke the election after the due date of the return including extensions.

(b) Taxable Income of Taxed S Corporation. – A tax is imposed for the taxable period on the North Carolina taxable income of a taxed S Corporation. The tax shall be levied, collected,

and paid annually. The tax is imposed on the North Carolina taxable income at the rate levied in G.S. 105-153.7. The North Carolina taxable income of a taxed S Corporation is determined as follows:

- (1) The North Carolina taxable income of a taxed S Corporation with respect to such taxable period shall be equal to the sum of the following:
 - a. Each shareholder's pro rata share of the taxed S Corporation's income or loss, subject to the adjustments provided in G.S. 105-153.5 and G.S. 105-153.6, attributable to the State.
 - b. Each resident shareholder's pro rata share of the taxed S Corporation's income or loss, subject to the adjustments provided in G.S. 105-153.5 and G.S. 105-153.6, not attributable to the State with respect to such taxable period.
- (2) Separately stated items of deduction are not included when calculating each shareholder's pro rata share of the taxed S Corporation's taxable income. For purposes of this subdivision, separately stated items are those items described in section 1366 of the Code and the regulations under it.
- (3) The adjustments required by G.S. 105-153.5(c3) are not included in the calculation of the taxed S Corporation's taxable income.

(c) Tax Credit. – A taxed S Corporation that qualifies for a credit may apply each shareholder's pro rata share of the taxed S Corporation's credits against the shareholder's pro rata share of the taxed S Corporation's income tax imposed by subsection (b) of this section. An S Corporation must pass through to its shareholders any credit required to be taken in installments by this Chapter if the first installment was taken in a taxable period that the election under subsection (a) of this section was not in effect. An S Corporation shall not pass through to its shareholders any of the following:

- (1) Any credit allowed under this Chapter for any taxable period the S Corporation makes the election under subsection (a) of this section and the carryforward of the unused portion of such credit.
- (2) Any subsequent installment of such credit required to be taken in installments by this Chapter after the S Corporation makes an election under subsection (a) of this section and the carryforward of any unused portion of such installment.

(d) Tax Credit for Income Taxes Paid to Other States. – With respect to resident shareholders, a taxed S Corporation is allowed a credit against the taxes imposed by this section for income taxes imposed by and paid to another state or country on income taxed under this section. The credit allowed by this subsection is administered in accordance with the provisions of G.S. 105-153.9.

(e) Deduction Allowed for Shareholders of a Taxed S Corporation. – The shareholders of a taxed S Corporation are allowed a deduction as specified in G.S. 105-153.5(c3)(1). This adjustment is only allowed if the taxed S Corporation complies with the provisions of subsection (g) of this section.

(f) Addition Required for Shareholders of a Taxed S Corporation. – The shareholders of a taxed S Corporation must make an addition as provided in G.S. 105-153.5(c3)(2).

(g) Payment of Tax. – Except as provided in Article 4C of this Chapter, the full amount of the tax payable as shown on the return of the taxed S Corporation must be paid to the Secretary within the time allowed for filing the return. In the case of any overpayment by a taxed S Corporation of the tax imposed under this section, only the taxed S Corporation may request a refund of the overpayment. If the taxed S Corporation files a return showing an amount due with the return and does not pay the amount shown due, the Department may collect the tax from the taxed S Corporation pursuant to G.S. 105-241.22(1). The Secretary must issue a notice of collection for the amount of tax debt to the taxed S Corporation. If the tax debt is not paid to the Secretary within 60 days of the date the notice of collection is mailed to the taxed S Corporation,

the shareholders of the S Corporation are not allowed the deduction provided in G.S. 105-153.5(c3)(1). The Secretary must send the shareholders a notice of proposed assessment in accordance with G.S. 105-241.9. For purposes of this subsection, the term "tax debt" has the same meaning as defined in G.S. 105-243.1(a).

(h) Basis. – The basis of both resident and nonresident shareholders of a taxed S Corporation in their stock and indebtedness of the taxed S Corporation shall be determined as if the election under subsection (a) of this section had not been made and each of the shareholders of the taxed S Corporation had properly taken into account each shareholder's pro rata share of the taxed S Corporation's items of income, loss, and deduction in the manner required with respect to an S Corporation for which no such election is in effect."

SECTION 42.5.(d) G.S. 105-131.7 is amended by adding a new subsection to read:

"(g) Taxed S Corporation. – Subsections (b) through (f) of this section do not apply to an S Corporation with respect to any taxable period for which it is a taxed S Corporation under G.S. 105-131.1A."

SECTION 42.5.(e) G.S. 105-131.8(a) reads as rewritten:

"(a) For-Except as otherwise provided in G.S. 105-153.9(a)(4) with respect to a taxed S Corporation, for purposes of G.S. 105-153.9 and G.S. 105-160.4, each resident shareholder is considered to have paid a tax imposed on the shareholder in an amount equal to the shareholder's pro rata share of any net income tax paid by the S Corporation to a state that does not measure the income of S Corporation shareholders by the income of the S Corporation. For purposes of the preceding sentence, the term "net income tax" means any tax imposed on or measured by a corporation's net income."

SECTION 42.5.(f) G.S. 105-153.3 reads as rewritten:

"§ 105-153.3. Definitions.

The following definitions apply in this Part:

...

(18a) Taxed partnership. – A partnership for which a valid election under G.S. 105-154.1 is in effect.

(18b) Taxed pass-through entity. – A taxed S Corporation or a taxed partnership.

(18c) Taxed S Corporation. – Defined in G.S. 105-131(b).

...."

SECTION 42.5.(g) G.S. 105-154(d) reads as rewritten:

"(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business shall report information concerning the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The distributive share of the income of each nonresident partner includes any guaranteed payments made to the partner. The manager of the business shall pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under G.S. 105-153.7. The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the income of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its corporate, partnership, trust, or estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager shall include a copy of the affirmation with the report required by this subsection. The affirmation must be annually filed by the nonresident partner and submitted by the manager by the due date of the report required in this subsection. Otherwise, the manager of the business is required to pay the tax on the nonresident partner's share. Notwithstanding the provisions of G.S. 105-241.7(b), the manager of the business may not request a refund of an overpayment made on behalf of a nonresident owner or partner if the manager of the business has previously filed the return and

1 paid the tax due. The nonresident owner or partner may, on its own income tax return, request a
2 refund of an overpayment made on its behalf by the manager of the business within the provisions
3 of G.S. 105-241.6. This subsection does not apply to a partnership with respect to any taxable
4 period for which it is a taxed partnership."

5 **SECTION 42.5.(h)** Part 2 of Article 4 of Chapter 105 of the General Statutes is
6 amended by adding a new section to read:

7 **"§ 105-154.1. Taxation of partnership as a taxed pass-through entity.**

8 (a) Taxed Partnership Election. – A partnership may elect, on its timely filed annual
9 return required under G.S. 105-154(c), to have the tax under this Article imposed on the
10 partnership for any taxable period covered by the return. A partnership may not revoke the
11 election after the due date of the return, including extensions. This election cannot be made by a
12 publicly traded partnership that is described in section 7704(c) of the Code or by a partnership
13 that has at any time during the taxable year a partner who is not one of the following:

14 (1) An individual.

15 (2) An estate.

16 (3) A trust described in section 1361(c)(2) of the Code.

17 (4) An organization described in section 1361(c)(6) of the Code.

18 (b) Taxable Income of Taxed Partnership. – A tax is imposed for the taxable period on
19 the North Carolina taxable income of a taxed partnership. The tax shall be levied, collected, and
20 paid annually. The tax is imposed on the North Carolina taxable income at the rate levied in
21 G.S. 105-153.7. The North Carolina taxable income of a taxed partnership is determined as
22 follows:

23 (1) The North Carolina taxable income of a taxed partnership with respect to such
24 taxable period shall be equal to the sum of the following:

25 a. Each partner's distributive share of the taxed partnership's income or
26 loss, subject to the adjustments provided in G.S. 105-153.5 and
27 G.S. 105-153.6, attributable to the State.

28 b. Each resident partner's distributive share of the taxed partnership's
29 income or loss, subject to the adjustments provided in G.S. 105-153.5
30 and G.S. 105-153.6, not attributable to the State with respect to such
31 taxable period.

32 (2) Separately stated items of deduction are not included when calculating each
33 partner's distributive share of the taxed partnership's taxable income. For
34 purposes of this subdivision, separately stated items are those items described
35 in section 702 of the Code and the regulations adopted under it.

36 (3) The adjustments required by G.S. 105-153.5(c3) are not included in the
37 calculation of the taxed partnership's taxable income.

38 (c) Tax Credit. – A taxed partnership that qualifies for a credit may apply each partner's
39 distributive share of the taxed partnership's credits against the partner's distributive share of the
40 taxed partnership's income tax imposed by subsection (b) of this section. A partnership must pass
41 through to its partners any credit required to be taken in installments by this Chapter if the first
42 installment was taken in a taxable period that the election under subsection (a) of this section was
43 not in effect. A partnership shall not pass through to its partners any of the following:

44 (1) Any credit allowed under this Chapter for any taxable period the partnership
45 makes the election under subsection (a) of this section and the carryforward
46 of the unused portion of such credit.

47 (2) Any subsequent installment of such credit required to be taken in installments
48 by this Chapter after the partnership makes an election under subsection (a) of
49 this section and the carryforward of any unused portion of such installment.

50 (d) Deduction Allowed for Partners of a Taxed Partnership. – The partners of a taxed
51 partnership are allowed a deduction as specified in G.S. 105-153.5(c3)(3). This adjustment is

only allowed if the taxed partnership complies with the provisions of subsection (f) of this section.

(e) Addition Required for Partners of a Taxed Partnership. – The partners of a taxed partnership must make an addition as provided in G.S. 105-153.5(c3)(4).

(f) Payment of Tax. – Except as provided in Article 4C of this Chapter, the full amount of the tax payable as shown on the return of the taxed partnership must be paid to the Secretary within the time allowed for filing the return. In the case of any overpayment by a taxed partnership of the tax imposed under this section, only the taxed partnership may request a refund of the overpayment. If the taxed partnership files a return showing an amount due with the return and does not pay the amount shown due, the Department may collect the tax from the taxed partnership pursuant to G.S. 105-241.22(1). The Secretary must issue a notice of collection for the amount of the tax debt to the taxed partnership. If the tax debt is not paid to the Secretary within 60 days of the date the notice of collection is mailed to the taxed partnership, the partners of the partnership are not allowed the deduction provided in G.S. 105-153.5(c3)(3). The Secretary must send the partners a notice of proposed assessment in accordance with G.S. 105-241.9. For purposes of this subsection, the term "tax debt" has the same meaning as defined in G.S. 105-243.1(a).

(g) Basis. – The basis of both resident and nonresident partners of a taxed partnership shall be determined as if the election under subsection (a) of this section had not been made and each of the partners of the taxed partnership had properly taken into account each partner's distributive share of the taxed partnership's items of income, loss, and deduction in the manner required with respect to a partnership for which no such election is in effect."

SECTION 42.5.(i) G.S. 105-153.5 is amended by adding a new subsection to read:

"(c3) Taxed Pass-Through Entities. – In calculating North Carolina taxable income, a taxpayer must make the following adjustments to the taxpayer's adjusted gross income:

- (1) A taxpayer that is a shareholder of a taxed S Corporation may deduct the amount of the taxpayer's pro rata share of income from the taxed S Corporation to the extent it was included in the taxed S Corporation's North Carolina taxable income and the taxpayer's adjusted gross income.
- (2) A taxpayer that is a shareholder of a taxed S Corporation must add the amount of the taxpayer's pro rata share of loss from the taxed S Corporation to the extent it was included in the taxed S Corporation's North Carolina taxable income and the taxpayer's adjusted gross income.
- (3) A taxpayer that is a partner of a taxed partnership may deduct the amount of the taxpayer's distributive share of income from the taxed partnership to the extent it was included in the taxed partnership's North Carolina taxable income and the taxpayer's adjusted gross income.
- (4) A taxpayer that is a partner of a taxed partnership must add the amount of the taxpayer's distributive share of loss from the taxed partnership to the extent it was included in the taxed partnership's North Carolina taxable income and the taxpayer's adjusted gross income."

SECTION 42.5.(j) G.S. 105-153.9(a) reads as rewritten:

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

...

- (4) Shareholders of a taxed S Corporation shall not be allowed a credit under this section for taxes paid by the taxed S Corporation to another state or country on income that is taxed to the taxed S Corporation. For purposes of allowing the credit under this section for taxes paid to another state or country by a taxed S Corporation's shareholders, a shareholder's pro rata share of the

income of the taxed S Corporation shall be treated as income taxed to the shareholder under this Part and a shareholder's pro rata share of the tax imposed on the taxed S Corporation under G.S. 105-131.1A shall be treated as tax imposed on the shareholder under this Part.

(5) Partners of a taxed partnership shall not be allowed a credit under this section for taxes paid by the taxed partnership to another state or country on income that is taxed to the taxed partnership. The taxed partnership as defined in G.S. 105-153.3(18a) is entitled to a credit under this section for all such taxes paid. For purposes of allowing the credit under this section for taxes paid to another state or country by a taxed partnership's partners, a partner's pro rata share of the income of the taxed partnership shall be treated as income taxed to the partner under this Part and a partner's pro rata share of the tax imposed on the taxed partnership under G.S. 105-154.1 shall be treated as tax imposed on the partner under this Part."

SECTION 42.5.(k) G.S. 105-160.4 reads as rewritten:

"§ 105-160.4. Tax credits for income taxes paid to other states by estates and trusts.

...

(f) Fiduciaries and beneficiaries of estates and trusts who are shareholders of a taxed S Corporation are not allowed a credit under this section for taxes paid by the estates and trusts or by the taxed S Corporation to another state or country on income that is taxed to the taxed S Corporation. The taxed S Corporation is entitled to a credit under G.S. 105-153.9(a)(4) for all such taxes paid. For purposes of this subsection, the term "taxed S Corporation" is the same as defined in G.S. 105-131(b).

(g) Fiduciaries and beneficiaries of estates and trusts who are partners of a taxed partnership are not allowed a credit under this section for taxes paid by the estates and trusts or by the taxed partnership to another state or country on income that is taxed to the taxed partnership. The taxed partnership is entitled to a credit under G.S. 105-153.9(a)(5) for all such taxes paid. For purposes of this subsection, the term "taxed partnership" is the same as defined in G.S. 105-153.3."

SECTION 42.5.(l) G.S. 105-163.38 is amended by adding a new subdivision to read:

"(6) Taxed pass-through entity. – Defined in G.S. 105-153.3."

SECTION 42.5.(m) G.S. 105-163.39 is amended by adding a new subsection to read:

"(d) Taxed Pass-Through Entity. – This Article applies to every taxed pass-through entity in the same manner as a corporation subject to tax under Article 4 of this Chapter, except that G.S. 105-163.41(d)(5) shall not apply with respect to a taxable year of a taxed pass-through entity if it was not a taxed pass-through entity during its preceding taxable year."

SECTION 42.5.(n) This section is effective for taxable years beginning on or after January 1, 2022.

CREATE SEPARATE STATE NET OPERATING LOSS CALCULATION FOR INDIVIDUAL INCOME TAX PURPOSES

SECTION 42.6.(a) G.S. 105-153.5 reads as rewritten:

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

...

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

...

(16) A State net operating loss as allowed under G.S. 105-153.5A.

(c) Additions. – In calculating North Carolina taxable income, a taxpayer must add to the taxpayer's adjusted gross income any of the following items that are not included in the taxpayer's adjusted gross income:

...

(6) ~~The Any amount of allowed as a net operating loss carried to and deducted on the federal return but not absorbed in that year and carried forward to a subsequent year deduction under the Code.~~

...."

SECTION 42.6.(b) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-153.5A. Net operating loss provisions.

(a) State Net Operating Loss. – A taxpayer's State net operating loss for a taxable year is the amount by which business deductions for the year exceed gross business income for the year as determined under the Code adjusted as provided in G.S. 105-153.5 and G.S. 105-153.6. The amount of a taxpayer's State net operating loss must also be determined in accordance with the following modifications:

(1) No State net operating loss deduction shall be allowed.

(2) The amount deductible on account of losses from sales or exchanges of capital assets shall not exceed the amount includable on account of gains from sales or exchanges of capital assets.

(3) The exclusion provided by Code section 1202 shall not be allowed.

(4) No deduction shall be allowed under G.S. 105-153.5(a1) for the child deduction.

(5) The deductions which are not attributable to a taxpayer's trade or business shall be allowed only to the extent of the amount of the gross income not derived from such trade or business.

(6) Any deduction under Code section 199A shall not be allowed.

(b) Deduction. – A taxpayer may carry forward a State net operating loss the taxpayer incurred in a prior taxable year and deduct it in the current taxable year, subject to the limitations in this subsection:

(1) The loss was incurred in one of the preceding 15 taxable years.

(2) Any loss carried forward is applied to the next succeeding taxable year before any portion of it is carried forward and applied to a subsequent taxable year.

(3) The taxpayer's State net operating loss deduction may not exceed the amount of the taxpayer's North Carolina taxable income determined without deducting the taxpayer's State net operating loss.

(4) The portion of the State net operating loss attributable to the carryforward allowed under subsection (f) of this section is only allowed to the extent described in subsection (f) of this section.

(c) Nonresidents. – In the case of a taxpayer that is a nonresident in the year of the loss, the State net operating loss only includes income and deductions derived from a business carried on in this State in the year of the loss. In the case of a taxpayer that is a nonresident in the year of the deduction, the State net operating loss must be included in the numerator of the fraction used to calculate taxable income as defined in G.S. 105-153.4(b).

(d) Part-Year Residents. – In the case of a taxpayer that is a part-year resident in the year of the loss, the State net operating loss includes income and deductions derived from a business carried on in this State while the taxpayer was a nonresident and includes business income and deductions derived from all sources during the period the taxpayer was a resident. In the case of a taxpayer that is a part-year resident in the year of the deduction, the State net operating loss must be included in the numerator of the fraction used to calculate taxable income as defined in G.S. 105-153.4(c).

(e) Administration. – A taxpayer claiming a deduction under this section must maintain and make available for inspection by the Secretary all records necessary to determine and verify the amount of the deduction. The Secretary or the taxpayer may redetermine a loss originating in a taxable year that is closed under the statute of limitations for the purpose of determining the amount of loss that can be carried forward to a taxable year that remains open under the statute of limitations.

(f) Federal Net Operating Loss Carryforwards. – The portion of a taxpayer's federal net operating loss carryforward that was not absorbed in tax years beginning prior to January 1, 2022, may be included in the amount of a taxpayer's State net operating loss in taxable years beginning on or after January 1, 2022. The federal net operating loss carryforward is only allowed as a State net operating loss in tax years beginning after January 1, 2022, to the extent that it meets all of the following conditions:

(1) The loss would have been allowed in that taxable year under section 172 of the Code as enacted on April 1, 2021.

(2) The provisions of G.S. 105-153.5(c2)(8), (9), (10), (13), and (14) do not apply to the federal net operating loss carryforward.

(3) The loss was incurred in one of the preceding 15 taxable years."

SECTION 42.6.(c) This section is effective for taxable years beginning on or after January 1, 2022.

REENACT AND MAKE PERMANENT MILL REHABILITATION CREDIT

SECTION 42.7.(a) Effective for taxable years beginning on or after January 1, 2021, Article 3H of Chapter 105 of the General Statutes is reenacted as it existed immediately before its repeal for rehabilitation projects for which an application for an eligibility certification was submitted on or after January 1, 2015, and reads as rewritten:

"Article 3H.

"Mill Rehabilitation Tax Credit.

...

"§ 105-129.71. Credit for income-producing rehabilitated mill property.

...

(a1) Credit for Rehabilitated Railroad Station. – A taxpayer who is allowed a credit under section 47 of the Code for making qualified rehabilitation expenditures of at least ten million dollars (\$10,000,000) with respect to a certified rehabilitation of an eligible railroad station is allowed a credit equal to a percentage of the expenditures that qualify for the federal credit. In order to be eligible for a credit allowed by this Article, the taxpayer must provide to the Secretary a copy of the eligibility certification and the cost certification. The amount of the credit is equal to forty percent (40%) of the qualified rehabilitation expenditures. The qualified rehabilitation expenditures must be incurred on or after January 1, 2019, and the credit cannot be claimed for a taxable year beginning prior to January 1, 2021. ~~The tax credit must be taken in two equal installments on returns filed for taxable years 2021 and 2022. The sum of the two installments is equal to the credit amount allowed for qualified rehabilitation expenditures incurred in taxable years 2019, 2020, and 2021.~~ When the eligible site is placed into service in two or more phases in different years, the amount of credit that may be claimed in a year is the amount based on the qualified rehabilitation expenditures associated with the phase placed into service during that year.

For purposes of this subsection, the term "eligible railroad station" is a site located in this State that satisfies all of the following conditions:

...

(4) It is a designated local landmark as certified by a ~~city on or before June 30, 2019.~~ city.

...

- (7) It is issued a certificate of occupancy on or before December 31, 2021. occupancy.

...
"§ 105-129.75. Sunset and applicable expenditures.

(a) ~~Sunset.~~ Except for credits allowed under G.S. 105-129.71(a1), this Article expires January 1, 2015, for rehabilitation projects for which an application for an eligibility certification is submitted on or after that date. ~~Eligibility certifications under this Article expire January 1, 2023.~~

(b) ~~Delayed Sunset and Applicable Expenditures.~~ For credits allowed under G.S. 105-129.71(a1), the following applies:

- (1) ~~The qualified rehabilitation expenditures must be incurred on or after January 1, 2019, and before January 1, 2022.~~
- (2) ~~This Article expires, and a tax credit allowed under G.S. 105-127.71(a1) may not be claimed, for rehabilitation projects not completed and placed in service prior to January 1, 2022.~~

...."

SECTION 42.7.(b) Eligibility certifications, whether issued prior to January 1, 2015, or on or after January 1, 2021, do not expire. Neither the reenactment of Article 3H of Chapter 105 of the General Statutes nor the repeal of G.S. 105-129.75 under this section requires a taxpayer who obtained an eligibility certification prior to January 1, 2015, for a rehabilitation project under this Article to reapply for an eligibility certification for the same project.

SECTION 42.7.(c) Except as otherwise provided, this section is effective when it becomes law.

EXPAND AND MAKE PERMANENT HISTORIC REHABILITATION CREDIT

SECTION 42.7A.(a) G.S. 105-129.105 reads as rewritten:

"§ 105-129.105. Credit for rehabilitating income-producing historic structure.

(a) Credit. – A taxpayer who is allowed a federal income tax credit under section 47 of the Code for making qualified rehabilitation expenditures for a certified historic structure located in this State is allowed a credit equal to the sum of the following:

- (1) Base amount. – The percentage of qualified rehabilitation expenditures at the levels provided in the table below:

Expenses Over	Up To	Rate
0	\$10 million	15.00%
\$10 million	\$20 million	10.00%

- (2) Development tier bonus. – An amount equal to five percent (5%) of qualified rehabilitation expenditures not exceeding twenty million dollars (\$20,000,000) if the certified historic structure is located in a development tier one or two area.

- (3) Targeted investment bonus. – An amount equal to five percent (5%) of qualified rehabilitation expenditures not exceeding twenty million dollars (\$20,000,000) if the certified historic structure is located on an eligible targeted investment site.

- (4) Education bonus. – An amount equal to five percent (5%) of qualified rehabilitation expenditures not exceeding twenty million dollars (\$20,000,000) if the certified historic structure was originally used for an educational purpose, is used for an educational purpose following the rehabilitation, and remains used for an educational purpose for each year in which the credit, or a carryforward of the credit, is claimed. For a certified historic structure used for multiple purposes, the bonus provided in this

subdivision shall be proportionate to the area of the certified historic structure used for an educational purpose.

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

...
(2a) Educational purpose. – A purpose that has as its objective the education or instruction of human beings; it comprehends the transmission of information and the training or development of the knowledge or skills of individual persons.

...."

SECTION 42.7A.(b) G.S. 105-129.110 is repealed.

SECTION 42.7A.(c) Subsection (a) of this section is effective for taxable years beginning on or after January 1, 2021. The remainder of this section is effective when it becomes law.

LIMIT GROSS PREMIUMS TAX ON SURETY BONDS

SECTION 42.8.(a) G.S. 105-228.5(b1) reads as rewritten:

"(b1) Calculation of Tax Base. – In determining the amount of gross premiums from business in this State, all gross premiums received in this State, credited to policies written or procured in this State, or derived from business written in this State shall be deemed to be for contracts covering persons, property, or risks resident or located in this State unless one of the following applies:

- (1) The premiums are properly reported and properly allocated as being received from business done in some other nation, territory, state, or states.
- (2) The premiums are from policies written in federal areas for persons in military service who pay premiums by assignment of service pay.

Gross premiums from business done in this State in the case of life insurance contracts, including supplemental contracts providing for disability benefits, accidental death benefits, or other special benefits that are not annuities, means all premiums collected in the calendar year, other than for contracts of reinsurance, for policies the premiums on which are paid by or credited to persons, firms, or corporations resident in this State, or in the case of group policies, for contracts of insurance covering persons resident within this State. The only deductions allowed shall be for premiums refunded on policies rescinded for fraud or other breach of contract and premiums that were paid in advance on life insurance contracts and subsequently refunded to the insured, premium payer, beneficiary or estate. Gross premiums shall be deemed to have been collected for the amounts as provided in the policy contracts for the time in force during the year, whether satisfied by cash payment, notes, loans, automatic premium loans, applied dividend, or by any other means except waiver of premiums by companies under a contract for waiver of premium in case of disability.

Gross premiums from business done in this State in the case of an insurer of bail bonds means the amounts received by an insurer from a surety bondsman during the calendar year for bail bonds written on behalf of the insurer. An insurer is subject to the definitions of gross premiums under this section for gross premiums from transacting any other line of insurance business. For purposes of this paragraph, the terms "bail bonds," "insurer," and "surety bondsman" have the same meaning as defined in G.S. 58-71-1.

Gross premiums from business done in this State for all other health care plans and contracts of insurance, including contracts of insurance required to be carried by the Workers' Compensation Act, means all premiums written during the calendar year, or the equivalent thereof in the case of self-insurers under the Workers' Compensation Act, for contracts covering property or risks in this State, other than for contracts of reinsurance, whether the premiums are designated as premiums, deposits, premium deposits, policy fees, membership fees, or

assessments. Gross premiums shall be deemed to have been written for the amounts as provided in the policy contracts, new and renewal, becoming effective during the year irrespective of the time or method of making payment or settlement for the premiums, and with no deduction for dividends whether returned in cash or allowed in payment or reduction of premiums or for additional insurance, and without any other deduction except for return of premiums, deposits, fees, or assessments for adjustment of policy rates or for cancellation or surrender of policies."

SECTION 42.8.(b) This section is effective for taxable years beginning on or after January 1, 2022.

EXTEND EXCISE TAX TO REMOTE SALES OF CIGARS AND MAKE CLARIFYING CHANGES REGARDING DELIVERY SALES AND REMOTE SALES OF TOBACCO PRODUCTS

SECTION 42.9.(a) G.S. 105-113.4 reads as rewritten:

"§ 105-113.4. Definitions.

The following definitions apply in this Article:

...

(2) Cost price. – The actual price a person liable for the tax on tobacco products paid for an item subject to the tax imposed by Part 3 of this Article paid for the products, before any discount, rebate, or allowance or the tax imposed by that Part by the person liable for the tax. The actual price paid for an item may be either of the following:

a. The actual price paid for an item identified as a stock keeping unit by a unique code or identifier representing the item.

b. If the actual price paid for an item is not available, the average of the actual price paid for the item over the 12 calendar months before January 1 of the year in which the sale occurs.

(2d) Delivery sale. – A sale of ~~tobacco products~~ cigarettes, smokeless tobacco, or vapor products to a consumer in this State in which either of the following apply:

a. The consumer submits the order for the sale by telephone, mail, the Internet or other online service or application, or when the seller is otherwise not in the physical presence of the consumer when the consumer submits the order.

b. The ~~tobacco products~~ cigarettes, smokeless tobacco, or vapor products are delivered via mail or a delivery service.

(2e) Delivery seller. – A person ~~that~~ located within or outside this State who makes a delivery sale.

...

(3) Distributor. – ~~Either~~ Any of the following:

a. A person, wherever resident or located, who purchases non-tax-paid cigarettes directly from the manufacturer of the cigarettes and stores, sells, or otherwise disposes of the cigarettes.

b. A manufacturer of cigarettes.

c. A delivery seller of cigarettes.

...

(8a) Remote sale. – A sale of tobacco products other than cigarettes, smokeless tobacco, or vapor products to a consumer in this State in which either of the following applies:

a. The consumer submits the order for the sale by telephone, mail, the internet, or other online service or application, or when the seller is

otherwise not in the physical presence of the consumer when the consumer submits the order.

b. The tobacco products other than cigarettes, smokeless tobacco, or vapor products are delivered via mail or a delivery service.

(8b) Remote seller. – A person located within or outside this State who makes a remote sale.

(9) Retail dealer. – A person who sells a tobacco product to the ultimate consumer of the product, including a remote seller or a delivery seller.

...

(10b) Smokeless tobacco. – Any finely cut, ground, powdered, or leaf tobacco, or other product containing tobacco, that is intended to be placed in the oral or nasal cavity or otherwise consumed without being combusted.

...."

SECTION 42.9.(b) G.S. 105-113.4F reads as rewritten:

"§ 105-113.4F. Delivery sales of certain tobacco products; age verification.

(a) ~~Scope. – This section applies to delivery sales of tobacco products, other than cigars, to consumers in this State regardless of whether the delivery seller is located inside or outside this State. sales.~~ For purposes of this section, the term "tobacco product" ~~is as defined in G.S. 105-113.4, except that it does not include cigars.~~ means cigarettes, smokeless tobacco, or vapor products.

(b) ~~Delivery Seller Requirements. – A delivery seller shall~~ must do all of the following with respect to a delivery sale:

(1) ~~Obtain a license from the Secretary pursuant to the requirements of as required by this Article before accepting an order.~~

(2) ~~Comply with the age verification requirements in G.S. 14-313(b2).~~

(3) ~~Report, collect, and remit to the Secretary all applicable taxes levied on tobacco products as set out in this Article and Article 5 of this Chapter.~~

(c) ~~Filing Requirement. – A delivery seller who has made a delivery sale, or shipped or delivered tobacco products in connection with a delivery sale, during the previous month shall, must, not later than the tenth day of each month, file with the Secretary a memorandum or a copy of the invoice for every delivery sale made during the previous month. A delivery seller who complies with 15 U.S.C. § 376 with respect to tobacco products covered by that section is considered to have complied with this subsection. The memorandum or invoice shall~~ must contain the following information:

(1) ~~The name, address, telephone number, and e-mail address of the consumer.~~

(2) ~~The type and the brand, or brands, of tobacco products that were sold.~~

(3) ~~The quantity of tobacco products that were sold.~~

(d) ~~Penalties. – A person who violates this section is subject to the following penalties:~~

(1) ~~For the first violation, a penalty of one thousand dollars (\$1,000).~~

(2) ~~For a subsequent violation, a penalty not to exceed five thousand dollars (\$5,000), as determined by the Secretary.~~

(e) ~~Exception. – This section does not apply to sales of tobacco products by a retail dealer who purchased the tobacco products from a licensed distributor or wholesale dealer.~~

(f) ~~State Laws Apply. – All State laws that apply to tobacco product retailers in this State shall apply to delivery sellers that sell tobacco products into this State.~~ Delivery Sellers as Retailers. – A delivery seller that meets the definition of a "retailer" as defined in Article 5 of this Chapter is subject to all State laws that apply to a retailer in this State."

SECTION 42.9.(c) G.S. 105-113.5 reads as rewritten:

"§ 105-113.5. Tax on cigarettes.

(a) ~~Rate. – A tax is levied on the sale or possession for sale in this State, by a licensed distributor, of all cigarettes at the rate of two and one-fourth cents (2.25¢) per individual cigarette.~~

(b) Primary Liability. – ~~The licensed distributor who first acquires or otherwise handles cigarettes subject to the tax imposed by this section is liable for the tax imposed by this section. A licensed distributor who brings-meets any of the following conditions is liable for the tax imposed by this section:~~

(1) Is the first person to possess or acquire cigarettes in this State.

(2) Is the first person to bring into this State cigarettes made outside the State-is the first person to handle the cigarettes in this State. A licensed distributor who is

(3) Is the original consignee of cigarettes made outside the State and-is that are shipped into the State-is the first person to handle the cigarettes in this State.

(4) Makes a delivery sale of cigarettes for which the delivery seller is required to collect sales and use tax under Article 5 of this Chapter."

SECTION 42.9.(d) G.S. 105-113.12 reads as rewritten:

"§ 105-113.12. Distributor must obtain license. License required.

(a) A distributor ~~shall-must~~ obtain a license for each ~~place of business a distributor's license and shall of the locations listed in this subsection, as applicable, and must pay a tax of twenty-five dollars (\$25.00) for the each license. A license is in effect until June 30 of the year following the second calendar year after the date of issuance or renewal. A license for each place of business is renewable upon signed application with no renewal license tax, unless applied for after the June 30 expiration date. The locations are:~~

(1) Each location where a distributor receives or stores non-tax-paid cigarettes in this State.

(2) For a distributor that is a delivery seller, each location from which the distributor ships delivery sales of cigarettes if the location is a location other than the location described in subdivision (1) of this subsection.

(b) ~~For the purposes of this section, a "place of business" is a place where a distributor receives or stores non tax paid cigarettes.~~

(c) An out-of-state distributor that is not a delivery seller may obtain a distributor's license upon compliance with the provisions of G.S. 105-113.4A and G.S. 105-113.24 and payment of a tax of twenty-five dollars (\$25.00)."

SECTION 42.9.(e) G.S. 105-113.18 reads as rewritten:

"§ 105-113.18. Payment of tax; reports.

The taxes levied in this Part are payable when a report is required to be filed. The following reports are required to be filed with the Secretary:

(1) Distributor's Report. – A licensed distributor ~~shall-must~~ file a monthly report in the form prescribed by the Secretary. The report covers cigarettes sold, shipped, delivered, or otherwise disposed of in this State in a calendar month and is due within 20 days after the end of the month covered by the report. The report ~~shall-must~~ show the quantity of all cigarettes transported or caused to be transported into the State by the licensed distributor or licensed manufacturer in the State for sales in this State and state the amount of tax due and ~~shall-must~~ identify any transactions to which the tax does not apply. A licensed distributor that is a delivery seller must also comply with the filing requirement under G.S. 105-113.4F.

(1a) Repealed by Session Laws 2019-169, s. 4.3(a), effective July 26, 2019.

(2) Use Tax Report. – ~~Every other-A~~ A person who is not a licensed distributor and has acquired non-tax-paid cigarettes for sale, use, or consumption subject to the tax imposed by this Part shall-must, within 96 hours after receipt of the cigarettes, file a report in the form prescribed by the Secretary showing the amount of cigarettes so received and any other information required by the

Secretary. The report ~~shall~~must be accompanied by payment of the full amount of the tax.

- (3) Shipping Report. – Any person, except a licensed distributor, who ~~transports~~transports, or causes to transport, cigarettes upon the public highways, roads, or streets of this State, upon notice from the Secretary, ~~shall~~must file a report in the form prescribed by the Secretary and containing the information required by the Secretary.

...."

SECTION 42.9.(f) The following statutes are repealed:

G.S. 105-113.35

G.S. 105-113.35A

G.S. 105-113.36

G.S. 105-113.37

G.S. 105-113.38

G.S. 105-113.39

G.S. 105-113.40A.

SECTION 42.9.(g) Part 3 of Article 2A of Chapter 105 of the General Statutes, as amended by subsection (f) of this section, reads as rewritten:

"Part 3. Tax on ~~Other Tobacco Products~~Products Other Than Cigarettes.

"Subpart 1. General Provisions.

"§ 105-113.35B. Applicability.

As used in this Part, the term "tobacco product" means a tobacco product other than cigarettes.

"Subpart 2. Tax Rates and Liability.

"§ 105-113.36A. Tax rates; liability for tax.

(a) Tax Imposed. – An excise tax is levied on the sale, use, consumption, handling, or distribution of tobacco products at the following rates:

(1) On vapor products, the rate of five cents (5¢) per fluid milliliter of consumable product. All invoices for vapor products issued by manufacturers must state the amount of consumable product in milliliters.

(2) On all other tobacco products, the rate of twelve and eight-tenths percent (12.8%) of the cost price.

(b) Primary Liability for Tax. – A wholesale dealer that has not been relieved of paying tax under G.S. 105-113.37A or a retail dealer is primarily liable for the tax imposed by this section if the dealer meets any of the following conditions:

(1) Is the first person to possess or acquire the tobacco product in this State.

(2) Is the first person to bring a tobacco product made outside the State into this State.

(3) Is the original consignee of a tobacco product made outside the State that is shipped into the State.

(4) Makes a remote sale or a delivery sale for which the dealer is required to collect sales and use tax under Article 5 of this Chapter.

(c) Secondary Liability. – A retail dealer located in this State who acquires from a wholesale dealer non-tax-paid tobacco products subject to the tax imposed by this section is liable for any tax due on the tobacco products.

(d) Exemptions. – The taxes imposed under this section do not apply to the following:

(1) A tobacco product sold outside the State.

(2) A tobacco product sold to the federal government.

(3) A sample tobacco product distributed without charge. A sample tobacco product may only be distributed in a "qualified adult-only facility" as that term is defined in 21 C.F.R. § 1140.16(d)(2).

(e) Use Tax. – A tax is levied upon the sale or possession for sale by a person other than a licensed wholesale dealer or a licensed retail dealer and upon the use, consumption, or possession for use or consumption of tobacco products within this State at the rate set in this section. This tax does not apply to tobacco products for which the tax levied in this section has been paid.

(f) Documentation. – If a person liable for the tax imposed by this Part cannot produce to the Secretary's satisfaction documentation of the cost price of the items subject to tax, the Secretary may determine a value based on the cost price of comparable items.

"Subpart 3. Wholesale and Retail Dealers.

"§ 105-113.37A. Manufacturer's option.

(a) Shipping to Other Licensed Dealers. – A manufacturer who is not a retail dealer and who ships tobacco products to either a wholesale dealer or a retail dealer licensed under this Part may, upon application to the Secretary and upon compliance with requirements prescribed by the Secretary, be relieved of paying the tax on tobacco products imposed by this Part but is not relieved from filing a report as required by this Part.

(b) Integrated Wholesale Dealers. – If a manufacturer has been relieved of paying tax under this section, the permission granted to be relieved of paying the tax also applies to an integrated wholesale dealer with whom the manufacturer is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with whom it is an affiliate when the manufacturer applies to the Secretary for permission to be relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the manufacturer after the Secretary has given the manufacturer permission to be relieved of paying the tax.

(c) Dual Exemption. – If a person is both a manufacturer of cigarettes and a wholesale dealer of tobacco products, and the person is granted permission under G.S. 105-113.10 to be relieved of paying the cigarette excise tax, the permission applies to the tax imposed by this Part on tobacco products. A cigarette manufacturer who becomes a wholesale dealer after receiving permission to be relieved of the cigarette excise tax must notify the Secretary of the permission received under G.S. 105-113.10 when applying for a license as a wholesale dealer.

"§ 105-113.37B. Non-tax-paid products.

Except as otherwise provided in this Part, a licensed wholesale dealer may not sell, borrow, loan, or exchange non-tax-paid tobacco products to, from, or with another licensed wholesale dealer, and an integrated wholesale dealer may not sell, borrow, loan, or exchange non-tax-paid tobacco products to, from, or with another integrated wholesale dealer.

"§ 105-113.37C. Discount; refund.

(a) Discount. – A wholesale dealer or a retail dealer who is primarily liable for the excise taxes imposed by this Part, who files a timely report under this Part, and who sends a timely payment may deduct from the amount due with the report a discount of two percent (2%). This discount covers expenses incurred in preparing the records and reports required by this Part and the expense of furnishing a bond. This subsection does not apply with respect to the excise tax levied on vapor products.

(b) Refund. – A wholesale dealer or retail dealer who is primarily liable for the excise taxes imposed by this Part and is in possession of stale or otherwise unsalable tobacco products upon which the tax has been paid may return the tobacco products to the manufacturer and apply to the Secretary for refund of the tax. The application must be in the form prescribed by the Secretary and accompanied by a written certificate signed under penalty of perjury or an affidavit from the manufacturer listing the tobacco products returned to the manufacturer by the applicant. The Secretary must refund the tax paid, less the discount allowed, on the listed products.

"Subpart 4. Remote Sellers.

"§ 105-113.38A. Remote seller requirements.

A remote seller must do all of the following with respect to a remote sale:

- (1) Obtain a license from the Secretary as required by this Part before accepting an order.
- (2) Report, collect, and remit to the Secretary all applicable taxes as set out in this Part and Article 5 of this Chapter. A remote seller that meets the definition of a "retailer" as defined in Article 5 of this Chapter is subject to all State laws that apply to a retailer in this State.

"§ 105-113.38B. Records.

In addition to the records required to be kept under G.S. 105-113.4G, a remote seller must maintain the following:

- (1) A list, updated annually, showing the cost price paid by the remote seller for each stock keeping unit of tobacco products.
- (2) Invoices documenting remote or delivery sales to consumers in this State.
- (3) Records necessary to document the cost price of purchases of all tobacco products sold to consumers in this State.

"§ 105-113.38C. Penalties.

A remote seller who violates G.S. 105-113.38A is subject to the following penalties:

- (1) For the first violation, a penalty of one thousand dollars (\$1,000).
- (2) For a subsequent violation, a penalty not to exceed five thousand dollars (\$5,000), as determined by the Secretary.

"Subpart 5. Administrative Provisions.

"§ 105-113.39A. License required.

(a) Requirement. – A wholesale dealer or a retail dealer must obtain from the Secretary a license for each of the locations listed in this subsection, as applicable, and must pay the required license tax for each license. A license is in effect until June 30 of the year following the second calendar year after the date of issuance or renewal, unless cancelled or revoked prior to expiration. A license is renewable upon signed application with no renewal license tax, unless applied for after the June 30 expiration date. The locations are:

- (1) Each location where a wholesale dealer makes tobacco products.
- (2) Each location where a wholesale dealer or a retail dealer receives or stores non-tax-paid tobacco products.
- (3) Each location from where a retail dealer that is a delivery seller or remote seller ships delivery sales or remote sales if the location is a location other than the location described in subdivision (2) of this subsection.

(b) License Tax Amount. – The license tax amounts are as follows:

- | | |
|-----------------------------|-----------------|
| (1) <u>Wholesale dealer</u> | <u>\$25.00</u> |
| (2) <u>Retail dealer</u> | <u>\$10.00.</u> |

(c) Out-of-State Wholesale Dealers. – An out-of-state wholesale dealer of tobacco products that is not a delivery seller or a remote seller may obtain a wholesale dealer's license upon compliance with the provisions of G.S. 105-113.4A and payment of a tax of twenty-five dollars (\$25.00).

"§ 105-113.39B. Payment of tax.

(a) Monthly Report. – Taxes levied by this Part are payable by the entity that is primarily liable for the tax when a report is required to be filed. A report is due on a monthly basis. A monthly report covers tobacco products sold, shipped, delivered, or otherwise disposed of in this State occurring in a calendar month and is due within 20 days after the end of the month covered by the report. A report must be filed on a form provided by the Secretary and must contain the information required by the Secretary.

(b) Use Tax Report. – A person who is not a licensee under this Part and has acquired non-tax-paid tobacco products for sale, use, or consumption subject to the tax imposed by this Part must, within 96 hours after receipt of the tobacco products, file a report in the form prescribed by the Secretary showing the amount of tobacco products received and any other

information required by the Secretary. The report must be accompanied by payment of the full amount of the tax.

(c) Shipping Report. – A person who transports, or causes to transport, tobacco products upon the public highways, roads, or streets of this State must, upon notice from the Secretary, file a report in a form prescribed by and containing the information required by the Secretary.

"§ 105-113.39C. Bond or irrevocable letter of credit.

The Secretary may require a wholesale dealer or a retail dealer to furnish a bond in an amount that adequately protects the State from a wholesale dealer's or a retail dealer's failure to pay taxes due under this Part. A bond must be conditioned on compliance with this Part, payable to the State, and in the form required by the Secretary. The amount of the bond is two times the wholesale or retail dealer's average expected monthly tax liability under this Part, as determined by the Secretary, provided the amount of the bond may not be less than two thousand dollars (\$2,000) and may not be more than two million dollars (\$2,000,000). The Secretary should periodically review the sufficiency of bonds required of dealers, increase the amount of a required bond when the amount of the bond furnished no longer covers the anticipated tax liability of the wholesale dealer or retail dealer, and decrease the amount when the Secretary determines that a smaller bond amount will adequately protect the State from loss.

For purposes of this section, a wholesale dealer or a retail dealer may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Part, and in the amounts stipulated in this section.

"§ 105-113.39D. Use of tax proceeds.

The Secretary must credit the net proceeds of the tax collected under this Part as follows:

(1) Six and four-tenths percent (6.4%) to the University Cancer Research Fund established under G.S. 116-29.1.

(2) The remainder to the General Fund."

SECTION 42.9.(h) G.S. 116-29.1(b) reads as rewritten:

"(b) Effective July 1 of each calendar year, the funds remitted to the University Cancer Research Fund by the Secretary of Revenue from the tax on tobacco products other than cigarettes pursuant to ~~G.S. 105-113.40A~~ G.S. 105-113.39D are appropriated for this purpose."

SECTION 42.9.(i) This section becomes effective July 1, 2022, and applies to sales or purchases occurring on or after that date. This section does not affect the rights or liabilities of a taxpayer or another person arising under the law as it existed before the effective date of this section, nor does it affect the right to any refund or credit of a tax that accrued under the law as it existed before the effective date of this section.

SALES TAX EXEMPTION FOR ALCOHOL BEVERAGE MANUFACTURING

SECTION 42.10A.(a) G.S. 105-164.13 reads as rewritten:

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

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

...

(5q) Sales of machinery, equipment, parts, and accessories to the following permittees for use in the manufacture of the following items and supplies and ingredients used or consumed by the permittee in the manufacturing process:

a. The holder of an unfortified winery permit for the manufacture of unfortified wine, as authorized in G.S. 18B-1101.

b. The holder of a fortified winery permit for the manufacture of fortified wine, as authorized in G.S. 18B-1102.

- c. The holder of a brewer permit for the manufacture of malt beverages, as authorized in G.S. 18B-1104.
- d. The holder of a distillery permit for the manufacture of spirituous liquor, as authorized in G.S. 18B-1105.

...."

SECTION 42.10A.(b) This section is effective August 1, 2021, and applies to sales made on or after that date.

CCRC SALES TAX EXEMPTION AND FORGIVENESS

SECTION 42.10B.(a) G.S. 105-164.13 reads as rewritten:

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

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

...

(74) Items, other than alcoholic beverages, sold by a provider of continuing care to its residents. The purchase of items exempt from tax under this subdivision by a provider of continuing care is taxable and not subject to the exemption provided in G.S. 105-164.13(61b). The terms "continuing care," "provider," and "resident" have the same meanings as defined in G.S. 58-64-1, and the term "alcoholic beverage" has the same meaning as defined in G.S. 105-113.68."

SECTION 42.10B.(b) Forgiveness of Certain Sales Tax Assessments. – The Department of Revenue shall take no action to assess or collect from any person any sales and use tax for sales occurring on or after February 1, 2015, with respect to the retail sale of taxable items, other than alcoholic beverages, sold by a provider of continuing care to its residents.

The Secretary of Revenue shall reduce an assessment issued on or after February 1, 2015, against a provider of continuing care who requests relief for State and local sales and use taxes imposed on taxable items sold to its residents, provided such assessment remains appealable or is under appeal at the time the request for relief is made. The Secretary shall reduce the sales and use taxes assessed to zero and waive all penalties that were imposed as part of the assessment.

This subsection shall not provide any forgiveness of tax collected from a resident which has not been refunded or credited to the resident.

SECTION 42.10B.(c) Refund of Certain Sales Tax Collections. – A retailer who is a provider of continuing care that collected and remitted sales tax on the retail sale of taxable items sold to its residents for sales occurring on or after February 1, 2015, may apply to the Department of Revenue for a refund of the sales tax paid on the retail sale of taxable items, other than alcoholic beverages, sold to its residents for sales occurring on or after February 1, 2015. The amount of use tax due on the exempt items must be deducted from the refund amount. The retailer must comply with the provisions of G.S. 105-164.11 to obtain a refund. A request for a refund must be made on or before January 1, 2022. A request for refund received after that date is barred.

SECTION 42.10B.(d) Definitions. – For purposes of this section, the terms "alcoholic beverage," "continuing care," "provider," and "resident" have the same meanings as defined in G.S. 105-164.13(74).

SECTION 42.10B.(e) Subsection (a) of this section becomes effective October 1, 2021, and applies to sales occurring on or after that date. The remainder of this section is effective when it becomes law.

GRADUATE LATE PAYMENT PENALTIES

SECTION 42.11.(a) G.S. 105-236(a)(4) reads as rewritten:

"(4) Failure to Pay Tax When Due. – In the case of failure to pay any tax when due, without intent to evade the tax, the Secretary shall assess a penalty equal to ~~ten-two percent (10%)-(2%)~~ of the ~~tax~~ amount of the tax if the failure is for not more than one month, with an additional two percent (2%) for each additional month, or fraction thereof, during which the failure continues, not exceeding ten percent (10%) in aggregate. This penalty does not apply in any of the following circumstances:

- a. When the amount of tax shown as due on an amended return is paid when the return is filed.
- b. When the Secretary proposes an assessment for tax due but not shown on a return and the tax due is paid within 45 days after the later of the following:
 1. The date of the notice of proposed assessment of the tax, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.
 2. The date the proposed assessment becomes collectible under one of the circumstances listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review of the proposed assessment.

...."

SECTION 42.11.(b) This section becomes effective July 1, 2022, and applies to tax assessed on or after that date.

PROPERTY TAX EXEMPTION FOR VACCINES

SECTION 42.12.(a) G.S. 105-275 reads as rewritten:

"§ 105-275. Property classified and excluded from the tax base.

The following classes of property are designated special classes under Article V, Sec. 2(2), of the North Carolina Constitution and are excluded from tax:

...

(44a) Vaccines.

...."

SECTION 42.12.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2022.

REVENUE LAWS TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES

SECTION 42.13A.(a) G.S. 105-153.5(b) reads as rewritten:

"(b) Other Deductions. – In calculating North Carolina taxable income, a taxpayer may deduct from the taxpayer's adjusted gross income any of the following items that are included in the taxpayer's adjusted gross income:

...

(14)(15) The amount granted to the taxpayer during the taxable year under the Extra Credit grant program. This subdivision expires for taxable years beginning on or after January 1, 2021-2022."

SECTION 42.13A.(b) G.S. 105-153.5(c2) reads as rewritten:

"(c2) Decoupling Adjustments. – In calculating North Carolina taxable income, a taxpayer must make the following adjustments to the taxpayer's adjusted gross income:

...

(17) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the amount by which the taxpayer's interest expense deduction under section 163(j) of the Code exceeds the interest expense deduction that would have been allowed under the Internal Revenue Code as enacted as of January 1,

2020. An add-back under this subdivision is not required to the extent the amount was required to be added back under another provision of this subsection. The purpose of this subdivision is to decouple from the modification of limitation on business interest allowed under section 2306 of the CARES Act.

(17a) A taxpayer who made an addition under subdivision (17) of this subsection may deduct twenty percent (20%) of the addition in each of the first five taxable years beginning with tax year 2021.

...."

SECTION 42.13A.(c) G.S. 105-153.9(a)(2) reads as rewritten:

"(2) The fraction of the gross income, as modified as provided in ~~G.S. 105-134.6A, G.S. 105-153.5, G.S. 105-153.5~~ and G.S. 105-153.6, that is subject to income tax in another state or country shall be ascertained, and the North Carolina net income tax before credit under this section shall be multiplied by that fraction. The credit allowed is either the product thus calculated or the income tax actually paid the other state or country, whichever is smaller."

SECTION 42.13A.(d) G.S. 105-163.7(b) reads as rewritten:

"(b) Informational Return to Secretary. – Every employer shall annually file an informational return with the Secretary that contains the information given on each of the employer's written statements to an employee. The Secretary may require additional information to be included on the informational return, provided the Secretary has given a minimum of 90 days' notice of the additional information required. The informational return ~~is due on or before January 31 of the succeeding year and~~ must be filed in an electronic format as prescribed by the ~~Secretary. If Secretary~~ and is due on or before January 31 of the succeeding year or, if the employer terminates its business ~~or permanently ceases paying wages during before the close of the calendar year, the informational return must be filed within 30 days of the last payment of remuneration.~~ on or before the last day of the month following the end of the calendar quarter in which the employer terminates its business, but no later than January 31 of the succeeding year. The informational return required by this subsection is in lieu of the report required by G.S. 105-154.

...."

SECTION 42.13A.(e) G.S. 105-163.8 is amended by adding a new subsection to read:

"(c) If a withholding agent fails to file a return and pay the tax due under this Article or files a grossly incorrect or false or fraudulent return, the Secretary must estimate the tax due and assess the withholding agent based on the estimate."

SECTION 42.13A.(f) G.S. 105-241.6(b)(5) reads as rewritten:

"(5) Contingent Event. – The period to request a refund of an overpayment may be extended once as provided in this subdivision:

...

b. Other Event. – If a taxpayer contends that an event has occurred that prevents the taxpayer from filing an accurate and definite request for a refund of an overpayment within the period under this section, the taxpayer may submit a written request to the Secretary seeking an extension of the statute of limitations. The taxpayer must file a written request to the Secretary prior to expiration of the statute of limitations under this section. The request must establish by clear, convincing proof that the event is beyond the taxpayer's control and prevents the taxpayer from timely filing an accurate and definite request for a refund of an overpayment. The Secretary's decision on the request is final and is not subject to administrative or judicial review. If the

Secretary agrees to the request, the period to file a request for a refund of an overpayment is six months after the event concludes."

SECTION 42.13A.(g) G.S. 105-252.1 reads as rewritten:

"§ 105-252.1. Use of a TTIN.

A TTIN may not be used on any return, statement, or other document required to be filed with or furnished to the Department unless specifically authorized ~~in this Chapter by the Secretary.~~"

SECTION 42.13A.(h) Section 1.2(a) of S.L. 2021-16 reads as rewritten:

"**SECTION 1.2.(a)** Nonaccrual of Interest. – As a result of the automatic extension of the federal tax filing due date for individuals for the 2020 calendar year, the Secretary of Revenue has automatically extended the State tax filing due date for individuals for the 2020 tax year from April 15, 2021, to May 17, 2021. The Secretary will waive the penalty for failure to file an individual income tax return, including a partnership and estate and trust tax return, or pay individual income tax due if the return is filed and the tax due is paid by May 17, 2021. Notwithstanding G.S. 105-241.21(b), interest shall not accrue from April 15, 2021, through May 17, 2021, on an underpayment of tax imposed on an individual income tax ~~return~~ return, including a partnership and estate and trust tax return, due April 15, 2021."

SECTION 42.13A.(i) This section is effective when it becomes law.

SECTION 42.13B.(a) G.S. 105-83(d) reads as rewritten:

"(d) This section does not apply to ~~corporations liable for the tax levied under G.S. 105-102.3 or to savings~~ the following:

(1) Banks. For purposes of this subdivision, the term "bank" has the same meaning as defined in G.S. 105-130.7B(b).

(2) Savings and loan associations."

SECTION 42.13B.(b) G.S. 105-130.5(a) reads as rewritten:

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

...

(31) For taxable years 2019 and 2020, a taxpayer must add an amount equal to the amount by which the taxpayer's interest expense deduction under section 163(j) of the Code exceeds the interest expense deduction that would have been allowed under the Internal Revenue Code as enacted as of January 1, 2020, as calculated on a separate entity basis. An add-back under this subdivision is not required to the extent the amount was required to be added back under another provision of this subsection. The purpose of this subdivision is to decouple from the modification of limitation on business interest allowed under section 2306 of the CARES Act.

...."

SECTION 42.13B.(c) G.S. 105-130.5(b) reads as rewritten:

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

...

(32) A taxpayer who made an addition under subdivision (a)(31) of this section may deduct twenty percent (20%) of the addition that was not otherwise disallowed by G.S. 105-130.7B in each of the first five taxable years beginning tax year 2021."

SECTION 42.13B.(d) G.S. 105-130.7B(b)(4) reads as rewritten:

"(4) Qualified interest expense. – The amount of net interest expense paid or accrued to a related member in a taxable year with the amount limited to the taxpayer's proportionate share of interest paid or accrued to a person who is not a related member during the same taxable year. This limitation does not

1 apply to interest paid or accrued to a related member if one or more of the
2 following applies:

3 ...

4 e. The proportionate amount of interest paid or accrued to a related
5 member that has already been disallowed by the application of section
6 163(j) of the Code."

7 **SECTION 42.13B.(e)** G.S. 105-130.8A(c) reads as rewritten:

8 "(c) Mergers and Acquisitions. – The Secretary must apply the standards contained in
9 regulations adopted under sections 381 and 382 of the Code in determining the extent to which
10 a loss survives a merger or an acquisition. For mergers and acquisitions occurring prior to January
11 1, 2015, the Secretary must apply the standards under G.S. 105-130.8 for taxable years beginning
12 before January 1, 2015, and the standards of this section for taxable years beginning on or after
13 January 1, 2015."

14 **SECTION 42.13B.(f)** G.S. 105-251(a) reads as rewritten:

15 "(a) Scope of Information. – A taxpayer must give information to the Secretary when the
16 Secretary requests the information. The Secretary may request a taxpayer to provide only the
17 following kinds of information on a return, a report, or otherwise:

18 (1) Information that identifies the taxpayer.

19 (2) Information needed to determine the liability of the taxpayer for a tax.

20 (3) Information needed to determine whether an item is subject to a tax.

21 (4) Information that enables the Secretary to collect a tax.

22 (5) Financial or tax documentation required to determine the appropriate
23 adjustment under G.S. 105-130.5A. If such information is not timely provided
24 as required under G.S. 105-130.5A(a), the Secretary may propose any
25 adjustment allowable under Part 1 of Article 4 of this Chapter.

26 ~~(5)~~(6) Other information the law requires a taxpayer to provide or the Secretary
27 needs to perform a duty a law requires the Secretary to perform."

28 **SECTION 42.13B.(g)** Subsection (a) of this section is effective when it becomes
29 law and applies retroactively for taxable years beginning on or after July 1, 2016. Subsection (d)
30 of this section is effective when it becomes law and applies retroactively for taxable years
31 beginning on or after January 1, 2018. Except as otherwise provided, the remainder of this section
32 is effective when it becomes law.

33 **SECTION 42.13C.(a)** G.S. 105-164.13E(a)(7) reads as rewritten:

34 "(7) Any of the following animals:

35 a. ~~Baby chicks and poults.~~ Fowl.

36 b. Livestock."

37 **SECTION 42.13C.(b)** G.S. 105-259(b) reads as rewritten:

38 "(b) Disclosure Prohibited. – An officer, an employee, or an agent of the State who has
39 access to tax information in the course of service to or employment by the State may not disclose
40 the information to any other person except as provided in this subsection. Standards used or to
41 be used for the selection of returns for examination and data used or to be used for determining
42 the standards may not be disclosed for any purpose. All other tax information may be disclosed
43 only if the disclosure is made for one of the following purposes:

44 ...

45 ~~(5b) To furnish to the finance officials of a city a list of the utility taxable gross~~
46 ~~receipts and piped natural gas tax revenues attributable to the city under~~
47 ~~G.S. 105-116.1 and G.S. 105-187.44 or under former G.S. 105-116 and~~
48 ~~G.S. 105-120.~~

49"

1 **SECTION 42.13C.(c)** Subsection (a) of this section is effective retroactively to July
2 1, 2020, and applies to purchases made on or after that date. Except as otherwise provided, the
3 remainder of this section is effective when it becomes law.

4 **SECTION 42.13D.(a)** G.S. 105-113.4B reads as rewritten:

5 **"§ 105-113.4B. Cancellation or revocation of license.**

6 ...
7 (a1) ~~Revocation.~~ Summary Revocation and Procedure. – The Secretary may summarily
8 revoke a license issued under this Article when the Secretary ~~finds~~ determines that the licensee
9 is incurring liability for the tax imposed under this Article after failing to pay a tax when due
10 under this Article. ~~In addition, the~~ The Secretary must send a revoked licensee a notice of the
11 revocation and a notice of hearing. The hearing must be held within 10 days after the date of the
12 notice of revocation unless the revoked licensee requests, before the day of the hearing, that the
13 hearing be rescheduled. Upon receipt of a timely request, the Secretary must reschedule the
14 hearing and provide at least 10 days' notice of the rescheduled hearing. The revocation is not
15 stayed pending the hearing decision. A notice of hearing under this subsection must be in writing
16 and indicate the date, time, and place of the hearing. A hearing must be conducted as prescribed
17 by the Secretary. The Secretary must issue a final decision and notify the revoked licensee in
18 writing within 10 days of the hearing. The final decision must state the basis for the decision.
19 The statement of the basis of a revocation does not limit the Department from changing the basis.

20 (a2) Non-Summary Revocation. – The Secretary may revoke the license of a licensee that
21 commits one or more of the following acts after ~~holding a hearing on whether the license should~~
22 ~~be revoked:~~ affording the licensee an opportunity to have a hearing as provided in subsections
23 (a3) through (b2) of this section:

- 24 (1) Fails to obtain a license in a timely manner or for all places of business as
25 required by this Article.
- 26 (2) Willfully fails to file a return required by this Article.
- 27 (3) Willfully fails to pay a tax when due under this Article.
- 28 (4) Makes a false statement in an application or return required under this Article.
- 29 (5) Fails to keep records as required by this Article.
- 30 (6) Refuses to allow the Secretary or a representative of the Secretary to examine
31 the person's books, accounts, and records concerning tobacco product.
- 32 (7) Fails to disclose the correct amount of tobacco product taxable in this State.
- 33 (8) Fails to file a replacement bond or an additional bond if required by the
34 Secretary under this Article.
- 35 (9) Violates G.S. 14-401.18.
- 36 (10) Fails to meet or maintain the requirements set out in G.S. 105-113.4A(b).

37 (a3) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice
38 of proposed revocation that includes all of the following information:

- 39 (1) The basis for the proposed revocation. The statement of the basis for the
40 proposed revocation does not limit the Department from changing the basis.
- 41 (2) The effective date of the revocation, which must be one of the following:
 - 42 a. Forty-five days from the date of the notice of proposed revocation if
43 the licensee does not file a timely request for hearing.
 - 44 b. The tenth day after the date an adverse final decision is issued if the
45 adverse final decision is mailed.
 - 46 c. The date an adverse final decision is delivered if the adverse final
47 decision is delivered in person.
- 48 (3) The circumstances, if any, under which the Secretary will not revoke the
49 license.
- 50 (4) An explanation of how the licensee may contest the proposed revocation.

(a4) Request for Hearing and Decision. – A licensee may contest a proposed revocation by filing a written hearing request within 45 days of the date the notice of proposed revocation was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b). If the licensee does not file a timely hearing request, the license is revoked as provided in the notice of proposed revocation and the revocation is final and not subject to further administrative or judicial review.

(b) Hearing Procedure. – ~~The Secretary must send a person whose license is summarily revoked a notice of the revocation and must give the person an opportunity to have a hearing on the revocation within 10 days after the revocation.~~ The Secretary must give a person whose license may be revoked after a hearing at least 10 days' written notice licensee who filed a timely hearing request in accordance with subsection (a4) of this section at least 20 days' written notice of the date, time, and place of the hearing. A notice of a summary license revocation and a notice of hearing must be sent by certified mail to the last known address of the licensee. If the person whose license may be revoked fails to attend the noticed hearing, the license revocation is effective 15 days after the noticed hearing, unless the Department and the licensee agree to a shorter period. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the licensee in writing within 60 days of the hearing. The Department and the licensee may extend this time by mutual agreement. Failure to issue a final decision within the required time does not affect the validity of the decision. The final decision must state the basis for the decision and, if the final decision includes revocation of the license, the effective date of the revocation in accordance with subdivision (2) of subsection (a3) of this section. The statement of the basis of a revocation does not limit the Department from changing the basis.

(b1) Delivery of Notice. – The Secretary must deliver a notice in accordance with G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give notice by email or other electronic means if the licensee has consented to receiving notices via electronic means.

(b2) Return of Credentials. – If a license is revoked, the revoked licensee must return to the Secretary, within 10 days of the issuance of the final decision, all licenses previously issued. If a license is unable to be returned, the revoked licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license cannot be returned.

(c) Release of Bond. – When the Secretary cancels or revokes a license and the licensee has paid all taxes and penalties due under this Article, the Secretary must take one of the following actions concerning a bond or an irrevocable letter of credit filed by the licensee:

- (1) Return an irrevocable letter of credit to the licensee.
- (2) Return a bond to the licensee or notify the person liable on the bond and the licensee that the person is released from liability on the bond."

SECTION 42.13D.(b) Article 36B of Chapter 105 of the General Statutes is amended by adding the following new section:

"§ 105-449.47B. Revocation of license.

(a) Revocation. – The Secretary may revoke a license or a decal when a motor carrier fails to comply with this Article or Article 36C or 36D of this Subchapter after affording the motor carrier an opportunity to have a hearing as provided in this section.

(b) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice of proposed revocation that includes all of the following information:

- (1) The basis for the proposed revocation. The statement of the basis for the proposed revocation does not limit the Department from changing the basis.
- (2) The effective date of the revocation, which must be one of the following:
 - a. Forty-five days from the date of the notice of proposed revocation if the licensee does not file a timely request for hearing.

b. The tenth day after the date an adverse final decision is issued if the adverse final decision is mailed.

c. The date an adverse final decision is delivered if the adverse final decision is delivered in person.

(3) The circumstances, if any, under which the Secretary will not revoke the license.

(4) An explanation of how the licensee may contest the proposed revocation.

(c) Request for Hearing and Decision. – A licensee may contest a proposed revocation by filing a written hearing request within 45 days of the date the notice of proposed revocation was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b). If the licensee does not file a timely hearing request, the license is revoked as provided in the notice of proposed revocation and the revocation is final and not subject to further administrative or judicial review.

(d) Hearing Procedure. – The Secretary must give a licensee who filed a timely hearing request in accordance with subsection (c) of this section at least 20 days' written notice of the date, time, and place of the hearing, unless the Department and the licensee agree to a shorter period. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the licensee in writing within 60 days of the hearing. The Department and the licensee may extend this time limit by mutual agreement. Failure to issue a final decision within the required time does not affect the validity of the decision. The final decision must state the basis for the decision and, if the final decision includes revocation of a license or a decal, the effective date of the revocation in accordance with subdivision (b)(2) of this section. The statement of the basis of the revocation does not limit the Department from changing the basis.

(e) Delivery of Notice. – The Secretary must deliver a notice in accordance with G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give notice by email or other electronic means if the licensee has consented to receiving notices via electronic means.

(f) Return of Credentials. – If the license is revoked, the former licensee shall return to the Secretary, within 10 days of the issuance of the final decision, all licenses and decals previously issued. If the licenses or decals are not returned, the credentials are subject to seizure or removal from the motor vehicle or defacement. If a license or decal is unable to be returned, the licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license or decal cannot be returned."

SECTION 42.13D.(c) G.S. 105-449.76 reads as rewritten:

"§ 105-449.76. Cancellation or revocation of license.

(a) Cancellation. – The Secretary may cancel a license issued under this Article upon the written request of the licensee. The licensee's request must include a proposed effective date of cancellation and must return the license to the Secretary on or before the proposed effective date. If the licensee's request does not include a proposed effective date of cancellation, the license is cancelled 15 days after the Department receives the written request. If the license is unable to be returned, the licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license cannot be returned. The Secretary shall notify the licensee when the license is cancelled.

(a1) ~~Revocation.~~ Summary Revocation and Procedure. – The Secretary may summarily revoke a license issued under this Article when the Secretary ~~finds~~ determines that the licensee is incurring liability for the tax imposed under this Article after failing to pay a tax when due under this Article. ~~In addition, the~~ The Secretary must send a revoked licensee a notice of the revocation and a notice of hearing. The hearing must be held within 10 days after the date of the notice of revocation unless the revoked licensee requests, before the day of the hearing, that the hearing be rescheduled. Upon receipt of a timely request, the Secretary must reschedule the

1 hearing and provide at least 10 days' notice of the rescheduled hearing. The revocation is not
2 stayed pending the hearing decision. A notice of hearing under this subsection must be in writing
3 and indicate the date, time, and place of the hearing. A hearing must be conducted as prescribed
4 by the Secretary. The Secretary must issue a final decision and notify the revoked licensee in
5 writing within 10 days of the hearing. The final decision must state the basis for the decision.
6 The statement of the basis of a revocation does not limit the Department from changing the basis.

7 (a2) Non-Summary Revocation. – The Secretary may revoke the license of a licensee that
8 commits one or more of the acts listed in G.S. 105-449.120 after ~~holding a hearing on whether~~
9 ~~the license should be revoked, affording the licensee an opportunity to have a hearing as provided~~
10 in subsections (a3) through (b2) of this section.

11 (a3) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice
12 of proposed revocation that includes all of the following information:

13 (1) The basis for the proposed revocation. The statement of the basis for the
14 proposed revocation does not limit the Department from changing the basis.

15 (2) The effective date of the revocation, which must be one of the following:

16 a. Forty-five days from the date of the notice of proposed revocation if
17 the licensee does not file a timely request for hearing.

18 b. The tenth day after the date an adverse final decision is issued if the
19 adverse final decision is mailed.

20 c. The date an adverse final decision is delivered if the adverse final
21 decision is delivered in person.

22 (3) The circumstances, if any, under which the Secretary will not revoke the
23 license.

24 (4) An explanation of how the licensee may contest the proposed revocation.

25 (a4) Request for Hearing and Decision. – A licensee may contest a proposed revocation
26 by filing a written hearing request within 45 days of the date the notice of proposed revocation
27 was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was
28 delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b).
29 If the licensee does not file a timely hearing request, the license is revoked as provided in the
30 notice of proposed revocation and the revocation is final and not subject to further administrative
31 or judicial review.

32 (b) Hearing Procedure. – ~~The Secretary must send a person whose license is summarily~~
33 ~~revoked a notice of the revocation and must give the person an opportunity to have a hearing on~~
34 ~~the revocation within 10 days after the revocation. The Secretary must give a person whose~~
35 ~~license may be revoked after a hearing at least 10 give a licensee who filed a timely hearing~~
36 ~~request in accordance with subsection (a4) of this section at least 20 days' written notice of the~~
37 ~~date, time, and place of the hearing. A notice of a summary license revocation and a notice of~~
38 ~~hearing must be sent by certified mail to the last known address of the licensee. If the person~~
39 ~~whose license may be revoked fails to attend the noticed hearing, the license revocation is~~
40 ~~effective 15 days after the noticed hearing, unless the Department and the licensee agree~~
41 ~~to a shorter period. A hearing must be conducted as prescribed by the Secretary. The Secretary~~
42 ~~must issue a final decision and notify the licensee in writing within 60 days of the hearing. The~~
43 ~~Department and the licensee may extend this time by mutual agreement. Failure to issue a final~~
44 ~~decision within the required time does not affect the validity of the decision. The final decision~~
45 ~~must state the basis for the decision and, if the final decision includes revocation of the license,~~
46 ~~the effective date of the revocation in accordance with subdivision (2) of subsection (a3) of this~~
47 ~~section. The statement of the basis of a revocation does not limit the Department from changing~~
48 ~~the basis.~~

49 (b1) Delivery of Notice. – The Secretary must deliver a notice in accordance with
50 G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give

notice by email or other electronic means if the licensee has consented to receiving notices via electronic means.

(b2) Return of Credentials. – If the license is revoked, the former licensee shall return to the Secretary, within 10 days of the issuance of the final decision, all licenses and decals previously issued. If a license or decal is unable to be returned, the licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license or decal cannot be returned.

(c) Release of Bond. – When the Secretary cancels or revokes a license and the licensee has paid all taxes and penalties due under this Article, the Secretary must take one of the following actions concerning a bond or an irrevocable letter of credit filed by the licensee:

(1) Return an irrevocable letter of credit to the licensee.

(2) Return a bond to the licensee or notify the person liable on the bond and the licensee that the person is released from liability on the bond."

SECTION 42.13D.(d) G.S. 119-19 reads as rewritten:

"§ 119-19. Authority of Secretary to cancel or revoke a license.

(a) ~~Reasons.~~ Cancellation. – The Secretary of Revenue may cancel a license issued under this Article upon the written request of the licensee. The licensee's request must include a proposed effective date of the cancellation and must return the license to the Secretary on or before the proposed effective date. If the licensee's request does not include a proposed effective date of cancellation, the license is cancelled 15 days after the Department receives the written request. If the license is unable to be returned, the licensee must include a written statement of the reason, satisfactory to the Secretary, why the license cannot be returned. The Secretary must notify the licensee when the license is cancelled.

(a1) Summary Revocation and Procedure. – The Secretary may summarily revoke a license issued under this Article or under Article 36C or 36D of ~~Chapter 105 of the General Statutes~~ this Chapter when the Secretary ~~finds~~ determines that the licensee is incurring liability for the tax imposed by this Article after failing to pay a tax when due under this Article. The Secretary must send a revoked licensee a notice of the revocation and a notice of hearing. The hearing must be held within 10 days after the date of the notice of revocation unless the revoked licensee requests, before the day of the hearing, that the hearing be rescheduled. Upon receipt of a timely request, the Secretary must reschedule the hearing and provide at least 10 days' notice of the rescheduled hearing. The revocation is not stayed pending the hearing decision. A notice of hearing under this subsection must be in writing and indicate the date, time, and place of the hearing. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the revoked licensee in writing within 10 days of the hearing. The final decision must state the basis for the decision. The statement of the basis of a revocation does not limit the Department from changing the basis.

(a2) Non-Summary Revocation. – The Secretary may revoke the license of a licensee who files a false report under this Article or fails to file a report required under this Article after ~~holding a hearing on whether the license should be revoked~~ affording the licensee an opportunity to have a hearing as provided in subsections (a3) through (b2) of this section.

(a3) Notice of Proposed Revocation. – The Secretary must provide a licensee with a notice of proposed revocation that includes all of the following information:

(1) The basis for the proposed revocation. The statement of the basis for the proposed revocation does not limit the Department from changing the basis.

(2) The effective date of the revocation, which must be one of the following:

a. Forty-five days from the date of the notice of proposed revocation if the licensee does not file a timely request for hearing.

b. The tenth day after the date an adverse final decision is issued if the adverse final decision is mailed.

c. The date an adverse final decision is delivered if the adverse final decision is delivered in person.

(3) The circumstances, if any, under which the Secretary will not revoke the license.

(4) An explanation of how the licensee may contest the proposed revocation.

(a4) Request for Hearing and Decision. – A licensee may contest a proposed revocation by filing a written hearing request within 45 days of the date the notice of proposed revocation was mailed, if the notice was delivered by mail, or delivered to the licensee, if the notice was delivered in person. A hearing request is considered filed as provided under G.S. 105-241.11(b). If the licensee does not file a timely hearing request, the license is revoked as provided in the notice of proposed revocation and the revocation is final and not subject to further administrative or judicial review.

(b) Hearing Procedure. – The Secretary must send a person whose license is summarily revoked a notice of the revocation and must give the person an opportunity to have a hearing on the revocation within 10 days after the revocation. The Secretary must give a person whose license may be revoked after a hearing give a licensee who filed a timely hearing request in accordance with subsection (a4) of this section at least 10-20 days' written notice of the date, time, and place of the hearing. A notice of a summary license revocation and a notice of hearing must be sent by certified mail to the last known address of the licensee-hearing, unless the Department and the licensee agree to a shorter period. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the licensee in writing within 60 days of the hearing. The Department and the licensee may extend this time by mutual agreement. Failure to issue a final decision within the required time does not affect the validity of the decision. The final decision must state the basis for the decision and, if the final decision includes revocation of the license, the effective date of the revocation in accordance with subdivision (2) of subsection (a3) of this section. The statement of the basis of a revocation does not limit the Department from changing the basis.

(b1) Delivery of Notice. – The Secretary must deliver a notice in accordance with G.S. 105-241.20(b). In lieu of providing notice by United States mail, the Secretary may give notice by email or other electronic means if the licensee has consented to receiving notices via electronic means.

(b2) Return of Credentials. – If the license is revoked, the former licensee shall return to the Secretary, within 10 days of the issuance of the final decision, all licenses previously issued. If a license is unable to be returned, the licensee must include a written statement of the reasons, satisfactory to the Secretary, why the license cannot be returned.

(c) Release of Bond. – When the Secretary cancels or revokes a license and the licensee has paid all taxes and penalties due under this Article, the Secretary must either return to the licensee the bond filed by the licensee or notify the person liable on the bond and the licensee that the person is released from liability on the bond."

SECTION 42.13D.(e) This section becomes effective January 1, 2022, and applies to summary revocations and non-summary revocations initiated by the Department on or after that date.

SECTION 42.13E.(a) G.S. 105-113.8 is recodified as G.S. 105-113.4H.

SECTION 42.13E.(b) G.S. 105-113.11 is recodified as G.S. 105-113.4I.

SECTION 42.13E.(c) G.S. 105-113.4I, as recodified by subsection (b) of this section, reads as rewritten:

"§ 105-113.4I. Licenses required.

After the effective date of this Article, no A person shall may not engage in business as a distributor distributor, wholesale dealer, or retail dealer in this State, without having first obtained from the Secretary the appropriate license for that purpose as prescribed herein. Any in this

Article. A license required by this Article ~~shall be~~ is in addition to any ~~and all~~ other licenses ~~which that~~ may be required by law."

SECTION 42.13E.(d) G.S. 105-113.29 is recodified as G.S. 105-113.4J.

SECTION 42.13E.(e) G.S. 105-113.4J, as recodified by subsection (d) of this section, reads as rewritten:

"§ 105-113.4J. Unlicensed place of business.

It is unlawful for a person to maintain a place of business within this State required by this Article to be licensed to engage in the business of selling, offering for sale, or possessing with the intent to sell ~~cigarettes or other tobacco products~~ without first obtaining ~~the licenses~~. all licenses required by this Article."

SECTION 42.13E.(f) G.S. 105-113.33 is recodified as G.S. 105-113.4K.

SECTION 42.13E.(g) G.S. 105-113.83 reads as rewritten:

"§ 105-113.83. Payment of excise taxes.

...

(b) Malt Beverage and Wine. – The excise taxes on malt beverages and wine levied under G.S. 105-113.80(a) and (b), respectively, are payable to the Secretary by the resident wholesaler or importer who first handles the beverages in this State. ~~The excise taxes levied under G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to G.S. 18B-1001.1 must be paid by the wine shipper permittee.~~ The taxes on malt beverages and wine are payable only once on the same beverages. Unless otherwise provided, the tax is due on or before the 15th day of the month following the month in which the beverage is first sold or otherwise disposed of in this State by the wholesaler or importer. When excise taxes are paid on wine or malt beverages, the wholesaler or importer must submit to the Secretary verified reports on forms provided by the Secretary detailing sales records for the month for which the taxes are paid. The report must indicate the amount of excise tax due, contain the information required by the Secretary, and indicate separately any transactions to which the excise tax does not apply. ~~A wine shipper permittee shall submit verified reports once a year on forms provided by the Secretary detailing sales records for the year the taxes are paid. The verified report is due on or before the fifteenth day of the first month of the following calendar year.~~

(b1) Brewery and Winery Option. – A brewery or winery may be relieved of paying the tax levied under G.S. 105-113.80(a) and (b) if all of the following apply:

- (1) The brewery or winery holds a permit issued under G.S. 18B-1101, 18B-1102, or 18B-1104.
- (2) The brewery or winery transfers malt beverages or wine to a wholesaler permitted under G.S. 18B-1107 or G.S. 18B-1109.
- (3) The wholesaler agrees in writing to be responsible for the tax due on the transferred malt beverages or wine.
- (4) The brewery or winery files a report when the tax would otherwise be due reporting the transfer of malt beverages or wine to the wholesaler.

(b2) Backup Tax Liability. – If a brewery or winery is relieved of paying the excise tax as provided under subsection (b1) of this section, the wholesaler receiving the malt beverages or wine is liable for any tax due under this section.

(b3) Wine Shipper Permittee. – A wine shipper permittee must pay the excise tax levied under G.S. 105-113.80(b) on wine shipped directly to consumers in this State pursuant to G.S. 18B-1001.1. A wine shipper permittee must submit verified reports once a year on forms provided by the Secretary detailing sales records for the year taxes are paid. The verified report is due on or before the fifteenth day of the first month of the following calendar year.

...."

SECTION 42.13E.(h) G.S. 105-113.86 reads as rewritten:

"§ 105-113.86. Bond or irrevocable letter of credit.

(a) Wholesalers and Importers. – ~~A~~The Secretary may require a wholesaler or importer must file with the Secretary to furnish a bond in an amount of that adequately protects the State from a wholesaler's or importer's failure to pay taxes due under this Article. The amount of the bond shall not be less than five thousand dollars (\$5,000).~~The amount of the bond must be proportionate to the anticipated tax liability of the wholesaler or importer.~~

(a1) Distilleries. – The Secretary may require a distillery to furnish a bond in an amount that adequately protects the State from a distillery's failure to pay taxes under this Article. The amount of the bond shall not be less than two thousand dollars (\$2,000).

(a2) Periodic Review. – The Secretary should periodically review the sufficiency of the bonds required under this section. The Secretary may increase the proportionate amount required, not to exceed fifty thousand dollars (\$50,000), if the bond furnished no longer covers the taxpayer's anticipated tax liability. The Secretary may decrease the proportionate amount required when the Secretary determines that a smaller bond amount will adequately protect the State from loss. The bond must be conditioned on compliance with this Article, payable to the State, in a form acceptable to the Secretary, and secured by a corporate surety.

(b) Nonresident Vendors. – The Secretary may require the holder of a nonresident vendor ABC permit to furnish a bond in an amount not to exceed two thousand dollars (\$2,000). The bond must be conditioned on compliance with this Article, payable to the State in a form acceptable to the Secretary, and secured by a corporate surety.

(c) Letter of Credit. – For purposes of this section, a wholesaler or importer or importer, a nonresident vendor or vendor, or a distillery may substitute an irrevocable letter of credit for the secured bond required by this section. The letter of credit must be issued by a commercial bank acceptable to the Secretary and available to the State as a beneficiary. The letter of credit must be in a form acceptable to the Secretary, conditioned upon compliance with this Article, and in the amounts stipulated in this section."

SECTION 42.13E.(i) G.S. 105-236(a)(2) reads as rewritten:

"(2) Failure to Obtain a License. – For failure to obtain a license before engaging in a business, trade or profession for which a license is required, the Secretary shall assess a penalty equal to five percent (5%) of the amount prescribed for the license per month or fraction thereof until paid, not to exceed twenty-five percent (25%) of the amount so prescribed, but in any event shall not be less than five dollars (\$5.00). In cases in which the taxpayer, after written notification by the Department, fails to obtain a license as required under G.S. 105-449.65—G.S. 105-113.4I, 105-449.65, or G.S. 105-449.131, 105-449.131, the Secretary may assess a penalty of one thousand dollars (\$1,000)."

SECTION 42.13E.(j) G.S. 105-449.45 reads as rewritten:

"§ 105-449.45. Returns of carriers.

...
(d) ~~Penalties.~~Failure to File Return. – A motor carrier that fails to file a return under this section by the required date is subject to a penalty of fifty dollars (\$50.00).

(d1) Failure to Pay Tax When Due. – A motor carrier that fails to pay a tax when due is subject to a penalty of fifty dollars (\$50.00), or ten percent (10%) of the tax due, whichever is greater. The Secretary shall not assess this penalty if the motor carrier files or pays in accordance with G.S. 105-236(a)(4)a. or b.

(d2) Penalty Waiver. – The Secretary may reduce or waive a penalty as provided under G.S. 105-449.119.

...."

SECTION 42.13E.(k) G.S. 105-449.60 reads as rewritten:

"§ 105-449.60. Definitions.

The following definitions apply in this Article:

...

(20a) Fuel grade ethanol. – Ethanol meeting the standard for the American Society Testing Materials Specification D 4806, "Standard Specification for Denatured Fuel Ethanol for Blending with Gasolines for Use as Automotive Spark-Ignition Engine Fuel," or ethanol, regardless of how it was produced, denatured in accordance with 27 C.F.R. § 19.746 as of January 1, 2021.

(21) Gasohol. – A blended fuel composed of gasoline and fuel grade ethanol-alcohol or gasoline and ethanol.

...."

SECTION 42.13E.(I) G.S. 105-449.115 reads as rewritten:

"§ 105-449.115. Shipping document required to transport motor fuel by railroad tank car or transport truck.

...

(d) Duties of Transporter. – A person to whom a shipping document was issued must do all of the following:

(1) Carry the shipping document in the conveyance for which it was issued when transporting the motor fuel described in it.

(2) Show the shipping document to a law enforcement officer upon request when transporting the motor fuel described in it.

(2a) Maintain a copy of the shipping document at a centralized place of business for at least three years from the date of delivery.

(3) Deliver motor fuel described in the shipping document to the destination state ~~printed-designated~~ on it unless the ~~person-person~~, in a manner prescribed by the Secretary, does all of the following:

a. ~~Notifies the Secretary, in a manner designated by the Secretary,~~ Secretary before transporting the motor fuel into a state other than the ~~printed-destination-state that the person has received instructions since the shipping document was issued to deliver the motor fuel to a different destination state-designated on the shipping document.~~

b. ~~Receives from the Secretary, in a manner designated by the Secretary,~~ Secretary a confirmation number authorizing the diversion-shipment of motor fuel to a state other than the state designated on the shipping document.

c. ~~Writes-Contemporaneously notes on the shipping document the change in destination state and the confirmation number for the diversion-received from the Secretary.~~

(4) ~~Give-Upon delivery, provide~~ a copy of the shipping document to the distributor or other person to whom the motor fuel is delivered.

(e) Duties of Person Receiving Shipment. – A person to whom motor fuel is delivered by railroad tank car or transport truck may ~~not-only~~ accept delivery of the motor fuel if the destination state shown on the shipping document for the motor fuel is ~~a state other than North Carolina. To determine if the shipping document shows North Carolina as the destination state, the person to whom the fuel is delivered must examine the shipping document and must keep a copy of the shipping document.~~ Carolina or has been changed to North Carolina in accordance with subdivision (3) of subsection (d) of this section. The person must keep-maintain a copy of the shipping document for at least three years from the date of delivery and must maintain a copy of the shipping document at the place of business where the motor fuel was delivered for 90 days from the date of delivery and must keep it at that place or another place for at least three years from the date of delivery. A person who accepts delivery of motor fuel in violation of this subsection is jointly and severally liable for any tax due on the fuel.

...."

SECTION 42.13E.(m) G.S. 105-449.115A reads as rewritten:

"§ 105-449.115A. Shipping document required to transport fuel by tank wagon.

...

(b) Duties of Transporter. – A person to whom an invoice, bill of sale, or shipping document was issued must do all of the following:

- (1) Carry the invoice, bill of sale, or shipping document in the conveyance for which it is issued when transporting the motor fuel described in it.
- (2) Show the invoice, bill of sale, or shipping document upon request when transporting the motor fuel described in it.
- (3) ~~Keep-Maintain~~ a copy of the invoice, bill of sale, or shipping document at a centralized place of business for at least three years from the date of delivery.
- (4) Deliver motor fuel described in the shipping document to the state designated on it unless the person, in a manner prescribed by the Secretary, does all of the following:
 - a. Notifies the Secretary before transporting the motor fuel into a state other than the state designated on the shipping document.
 - b. Receives from the Secretary a confirmation number authorizing the shipment of motor fuel to a state other than the state designated on the shipping document.
 - c. Contemporaneously notes on the shipping document the change in destination state and the confirmation number received from the Secretary.
- (5) Upon delivery, provide a copy of the shipping document to the person to whom the motor fuel is delivered.

(b1) Duties of Person Receiving Shipment. – A person to whom motor fuel is delivered by tank wagon may only accept delivery of the motor fuel if the destination state shown on the shipping document for the motor fuel is North Carolina or has been changed to North Carolina in accordance with subdivision (4) of subsection (b) of this section. The person must maintain a copy of the shipping document for at least three years from the date of delivery and must maintain a copy of the shipping document at the place of business where the motor fuel was delivered for 90 days from the date of delivery. A person who accepts delivery of motor fuel in violation of this subsection is jointly and severally liable for any tax due on the fuel.

...."

SECTION 42.13E.(n) G.S. 105-449.123 reads as rewritten:

"§ 105-449.123. Marking requirements for dyed fuel storage facilities.

(a) Requirements. – A person who is a retailer of dyed motor fuel or who stores both dyed and undyed motor fuel for use by that person or another person must mark the storage facility for the dyed motor fuel as ~~follows-provided in this subsection and~~ in a manner that clearly indicates the fuel is not to be used to operate a highway vehicle. The storage facility must be marked "Dyed Diesel, Nontaxable Use Only, Penalty For Taxable Use" or "Dyed Kerosene, Nontaxable Use Only, Penalty for Taxable Use" or a similar phrase that clearly indicates the fuel is not to be used to operate a highway vehicle. ~~A person who intentionally fails to mark the storage facility as required by this section is subject to a civil penalty equal to the excise tax at the motor fuel rate on the inventory held in the storage tank at the time of the violation. If the inventory cannot be determined, then the penalty is calculated on the capacity of the storage tank.~~ The marking requirements are:

- (1) The storage tank of the storage facility must be marked if the storage tank is visible.
- (2) The fillcap or spill containment box of the storage facility must be marked.
- (3) The dispensing device that serves the storage facility must be marked.

(4) The retail pump or dispensing device at any level of the distribution system must comply with the marking requirements.

(a1) Penalty. – A person who fails to mark the storage facility as required by subsection (a) of this section is subject to a civil penalty of two hundred fifty dollars (\$250.00). Each inspection that results in a finding of noncompliance constitutes a separate and distinct offense.

(b) Exception. – The marking requirements of this section do not apply to a storage facility that contains fuel used only for one of the purposes listed in G.S. 105-449.105A(a)(1) and is installed in a manner that makes use of the fuel for any other purpose improbable."

SECTION 42.13E.(o) Subsections (i) and (n) of this section become effective January 1, 2022, and apply to penalties assessed on or after that date. Subsections (k), (l), and (m) of this section become effective January 1, 2022. Except as otherwise provided, the remainder of this section is effective when it becomes law.

SECTION 42.13F.(a) G.S. 105-278(a) reads as rewritten:

"(a) Real property designated as a historic property by a local ordinance adopted pursuant to former G.S. 160A-399.4 or designated as a historic landmark by a local ordinance adopted pursuant to G.S. 160D-945 or former G.S. 160A-400.5 is designated a special class of property under authority of Article V, Sec. 2(2) of the North Carolina Constitution. Property so classified shall be taxed uniformly as a class in each local taxing unit on the basis of fifty percent (50%) of the true value of the property as determined pursuant to G.S. 105-285 and 105-286, or 105-287."

SECTION 42.13F.(b) This section is effective retroactively to June 19, 2020.