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SENATE BILL DRS15007-MHfp-26A

Short Title: Volunteer Fire Department Preservation Act. (Public)

Sponsors: Senators Daniel, Britt, and McInnis (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE VOLUNTEER FIRE DEPARTMENT PRESERVATION ACT OF
3 2021.
4 The General Assembly of North Carolina enacts:

6 **PART I. TITLE**

7 **SECTION 1.** This act shall be known and may be cited as the "Volunteer Fire
8 Department Preservation Act of 2021."

10 **PART II. NORTH CAROLINA FIREFIGHTERS FELLOWS PROGRAM**

11 **SECTION 2.(a)** G.S. 58-78-1 through G.S. 58-78-20 are recodified as Part 1 of
12 Article 78 of Chapter 58 of the General Statutes and entitled "General Provisions."

13 **SECTION 2.(b)** Article 78 of Chapter 58 of the General Statutes is amended by
14 adding the following new Part to read:

15 "Part 2. North Carolina Firefighters Fellows Program.

16 **"§ 58-78-25. Definitions.**

17 The following definitions apply in this Part:

- 18 (1) NCSFA. – The North Carolina State Firefighters' Association.
19 (2) Commission. – The North Carolina Fire and Rescue Commission established
20 in Part 1 of this Article.
21 (3) Committee. – The North Carolina Firefighters Fellows Committee.
22 (4) Community college. – Defined in G.S. 115D-2.
23 (5) State roster. – Roster maintained by the North Carolina State Firefighters'
24 Association and the North Carolina Department of State Treasurer as provided
25 in G.S. 58-86-25.
26 (6) Eligible fire department. – Defined in G.S. 58-86-2.
27 (7) Eligible firefighter professions. – State Firefighters on the official State roster
28 maintained by the North Carolina State Firefighters' Association.
29 (8) Program. – The North Carolina Firefighters Fellows Program.
30 (9) Recipient. – An individual selected by the Committee to receive a forgivable
31 loan under the Program.

32 **"§ 58-78-30. North Carolina Firefighters Fellows Committee established; membership.**

33 (a) Committee Established. – There is established the North Carolina Firefighters
34 Fellows Committee. The Committee shall oversee Program components, including forgivable
35 loan recipient selection criteria, selection procedures, and selection of recipients to receive
36 forgivable loans.



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(b) Membership. – The Committee shall consist of 10 members who shall be appointed by the chair of the Commission as follows:

(1) Two members of the Commission.

(2) Two members representing the NCSFA.

(3) Two members representing the North Carolina Association of Fire Chiefs.

(4) Three at-large members representing three different regions of the State as defined by the NCSFA.

(5) The President of the North Carolina Community College System or the President's designee, ex officio.

(c) Terms of Office. – Appointments to the Committee shall be for two-year terms, commencing July 1, 2021.

(d) Chair; Meetings. – The chair of the Commission shall call the first meeting of the Committee. The Committee members shall elect a chair and a vice-chair from the membership of the Committee pursuant to the Commission's bylaws to serve one-year terms. The Committee shall meet regularly at times and places deemed necessary by the chair or, in the absence of the chair, by the vice-chair.

(e) Expenses. – Committee members shall receive per diem, subsistence, and travel allowances in accordance with G.S. 138-5 or G.S. 138-6, as appropriate.

(f) Vacancies. – If a vacancy occurs in the membership of the Committee, the chair of the Commission shall appoint another person meeting the same qualifications to serve for the balance of the unexpired term.

"§ 58-78-35. North Carolina Firefighters Fellows Program established; administration; criteria.

(a) Program. – There is established the North Carolina Firefighters Fellows Program to be administered by the Committee with the assistance of the Office of State Fire Marshal. The purpose of the Program is to increase the number of fire service professionals by providing forgivable loans to exceptional individuals to obtain applied associate degrees in fire protection or other Committee-approved related fields of study as preparation to enter a fire service profession or provide volunteer service to their community.

(b) Program Administrator. – The Commissioner shall select a staff member from the Office of State Fire Marshal, with the consent of the Committee, to serve as the Program administrator. The Program administrator will be responsible for all administrative duties and oversight of the Program as established by the Committee. The Program administrator's duties shall include conduct of the following recruitment activities:

(1) Targeted visits to eligible departments.

(2) Identification of high school graduates who, due to economic or other circumstances, are displaced, unemployed, or underemployed.

(3) Identification of high school seniors who demonstrate an interest in becoming a fire service professional or providing volunteer service in their community.

(4) Engagement with fire service professionals and leaders in eligible departments for input regarding the Program and identification of potential loan recipients.

(5) Attendance of high school career days, job fairs, and other activities to recruit qualified individuals into the Program.

(c) Awards of Forgivable Loans. – The Program shall provide forgivable loans of up to three thousand one hundred fifty-two dollars (\$3,152) per year for up to two years to selected individuals. The funds from the forgivable loans may be used for tuition, fees, and the cost of books. The Committee may determine the maximum amount of loan proceeds that may be applied to community college fees and course textbooks. The number of forgivable loans awarded annually shall not exceed 100, and the total number of recipients in the Program each year shall not exceed 200. The Committee shall select recipients no later than June 1 of each year.

(d) Eligibility Criteria. – An applicant must be on the State roster of an eligible department at the time of application, a resident for tuition purposes as defined in G.S. 116-143.1, a high school graduate or a high school senior who will graduate from high school by the end of the current academic year, and demonstrate the intent upon completion of the Program to be employed or volunteer for an eligible department. An applicant who has been convicted of any of the following is ineligible to receive a forgivable loan:

(1) A felony.

(2) A crime for which the punishment could have been imprisonment for more than two years.

(e) Application Process. – The Committee may specify required application materials, including a certified State and local background check for applicants who are at least 18 years of age. Application materials and Committee deliberations are confidential and are not a public record as defined in G.S. 132-1. The Committee shall publish application, award, and notification deadlines and provide written notification to applicants regarding the outcome of the Committee's deliberations.

(f) Award of Forgivable Loan. – The Committee shall adopt standards for awarding forgivable loans based on measures the Committee deems appropriate, including the following, and the selection of recipients by the Committee shall be final:

(1) Scholastic Profile as determined by SAT or ACT scores, grade point average, and class rank when available.

(2) Potential for excellence in a firefighting profession.

(3) School and community service.

(4) At least two references.

(5) Demonstrated writing ability.

(g) Administration of Forgivable Loan Awards. – Upon the naming of recipients by the Committee, the Office of State Fire Marshal shall perform all administrative functions necessary to implement this Article, which functions shall include dissemination of information, disbursement, receipt, liaison with participating community colleges, determination of the acceptability of service repayment agreements, and all other functions necessary for the execution, payment, and enforcement of promissory notes required under this Article.

(h) Recipient Obligations. – A recipient must become and remain a student at a North Carolina community college in an applied associate degree in fire protection or in a Committee-approved related field of study at all times during each of the recipient's two academic years of community college study and continuously pursue studies that will qualify the recipient to be employed or volunteer in an eligible fire service department upon graduation. The recipient must maintain a minimum cumulative 2.0 GPA throughout the course of study and also maintain appropriate credit hours for each semester to obtain an applied associate degree in fire protection or Committee-approved field of study within three years. The recipient must also remain on the State roster in an eligible department as a fire service volunteer or professional for at least four out of five years following graduation. The Committee may adopt additional recipient obligations it deems appropriate.

(i) Annual Report. – The Program administrator, in coordination with the Committee, shall report no later than January 1, 2023, and annually thereafter, to the North Carolina Fire and Rescue Commission:

(1) The number of forgivable loans awarded for each academic year disaggregated by geographic area and other demographic information.

(2) Aggregated student performance, retention, and graduation rates.

(3) Forgiveness, termination, default, and repayment rates.

(4) Retention rates of recipients within eligible departments disaggregated by department, county, and region.

"§ 58-78-40. Terms of forgivable loans; repayment; default.

(a) Forgivable Loans. – All forgivable loans shall be evidenced by notes made payable to the Program that bear interest at a rate not to exceed ten percent (10%) per year as set by the Committee and beginning on the first day of September after the completion of the Program or 60 days after termination of the forgivable loan, whichever is earlier. The forgivable loan may be terminated upon the recipient's withdrawal from school, by the recipient's failure to meet the standards set by the Committee, or by the recipient's default based on conditions set by the Committee. The Committee may only disburse funds to the community college where the recipient is enrolled and may not disburse funds directly to a recipient.

(b) Forgiveness. – The Committee shall forgive the loan and any interest accrued on the loan if, within five years after obtaining an applied associate degree in fire protection or Committee-approved field of study, the recipient is a volunteer or employed on a full-time basis for a period of at least four years in an eligible department. The recipient shall provide the Committee within 60 days of completion of the Program verification of the recipient's intent to maintain or seek membership or employment as a firefighter in an eligible department. The recipient's verification of employment or volunteer status shall be maintained on the official annual State roster each year until the obligation is satisfied. The Committee shall also forgive the loan if it finds that it is impossible for the recipient to meet the terms of the loan due to death or permanent disability of the recipient.

(c) Extension. – The Committee may extend repayment of the loan for up to two years on a year-to-year basis for each year if (i) the recipient is on active duty with the Armed Forces of the United States or (ii) the Committee determines that circumstances warrant an extension.

(d) Repayment. – If the recipient notifies the Committee that the recipient intends to forego forgiveness of the loan after completion of the Program, the Committee shall provide the recipient with the conditions of repayment, and the recipient will have 60 days to begin repayment of all funds distributed, including interest. The recipient will have up to 60 months to repay all funds distributed, including interest.

(e) Default. – The Committee shall determine the events that constitute a default during the Program, including, but not limited to, failure by the recipient to comply with the obligations set out in this Part. In the event of default during the Program, the Committee may declare the entire unpaid amount of indebtedness evidenced by the note, including interest, immediately due and payable. A default shall preclude further participation by the recipient in the Program. Upon default, the Committee shall notify the recipient, in writing, by certified mail, return receipt requested, addressed to the recipient at the last address on file with the Committee. Refusal or nondelivery at that address will be deemed delivered after seven days. The Committee may allow a recipient who is in default to repay all funds distributed, including interest. If the Committee approves repayment, the recipient will receive the conditions of repayment and will have 60 days to begin repayment of all funds distributed, including interest. The recipient will have up to 60 months to repay all funds distributed, including interest."

SECTION 2.(c) This section becomes effective July 1, 2021, and applies to the award of forgivable loans beginning with the 2022-2023 academic year.

PART III. TAX INCENTIVE

SECTION 3.(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:

...

(50) Twenty-five percent (25%) of the assessed value of housing together with the necessary land therefor, owned and used as a primary residence by an unpaid member of a volunteer fire department who (i) is on the certified roster, (ii) attended at least 36 hours of fire department drills and meetings during the

taxable year, and (iii) has more than five years of volunteer fire service, as verified from the certified roster. For purposes of this subdivision, "certified roster" means the listing of firefighters meeting the eligibility criteria for the North Carolina Firefighters' and Rescue Squad Workers' Pension Fund maintained by the North Carolina State Firefighters' Association and the North Carolina Department of State Treasurer as provided in G.S. 58-86-25."

SECTION 3.(b) This section is effective for taxes imposed for taxable years beginning on or after July 1, 2021.

PART IV. INCREASE PENSION FUND MEMBER PAYMENTS

SECTION 4.(a) G.S. 58-86-35 reads as rewritten:

"§ 58-86-35. Firefighters' application for membership in fund; monthly payments by members; payments credited to separate accounts of members; termination of membership.

Those firefighters who are eligible pursuant to G.S. 58-86-25 may apply to the board for membership. Each firefighter upon becoming a member of the fund shall pay the director of the fund the sum of ~~ten dollars (\$10.00)~~ twenty dollars (\$20.00) per month; each payment shall be made no later than March 31 subsequent to the end of the calendar year in which the month occurred. The Pension Fund shall not award fully credited service based on payments received later than March 31 subsequent to the end of the calendar year in which the month occurred unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

A member may elect to terminate membership in the fund at any time and request the refund of payments previously made to the fund. However, a member's delinquency in making the monthly payments required by this section does not result in the termination of membership without such an election by the member."

SECTION 4.(b) G.S. 58-86-40 reads as rewritten:

"§ 58-86-40. Rescue squad worker's application for membership in funds; monthly payments by members; payments credited to separate accounts of members; termination of membership.

Those rescue squad workers eligible pursuant to G.S. 58-86-30 may apply to the board for membership. Each eligible rescue squad worker upon becoming a member shall pay the director of the fund the sum of ~~ten dollars (\$10.00)~~ twenty dollars (\$20.00) per month; each payment shall be made no later than March 31 subsequent to the end of the calendar year in which the month occurred. The Pension Fund shall not award fully credited service based on payments received later than March 31 subsequent to the end of the calendar year in which the month occurred unless the payment is applied as provided in G.S. 58-86-45(a1). The monthly payments shall be credited to the separate account of the member and shall be kept by the custodian so it is available for payment on withdrawal from membership or retirement.

A member may elect to terminate membership in the fund at any time and request the refund of payments previously made to the fund. However, a member's delinquency in making the monthly payments required by this section does not result in the termination of membership without such an election by the member."

SECTION 4.(c) G.S. 58-86-45 reads as rewritten:

"§ 58-86-45. Additional retroactive membership.

...

(b) An eligible firefighter or rescue squad worker who is not yet 35 years old may apply to the board of trustees for membership in the fund at any time. Upon becoming a member, the worker may make a lump sum payment of ~~ten dollars (\$10.00)~~ twenty dollars (\$20.00) per month retroactively to the time the worker first became eligible to become a member, plus interest at an

1 annual rate to be set by the board upon advice from actuary for each year of retroactive payments.
2 Upon making this lump sum payment, the worker shall be given credit for all prior service in the
3 same manner as if the worker had applied for membership upon first becoming eligible.

4 (c) A member of the Pension Fund who is not yet 35 years old may receive credit for the
5 prior service upon making a lump sum payment of ~~ten dollars (\$10.00)~~ twenty dollars (\$20.00)
6 for each month since the worker first became eligible, plus interest at an annual rate to be set by
7 the board for each year of retroactive payments. Upon making this lump sum payment, the date
8 of membership shall be the same as if the worker had applied for membership upon first
9 becoming eligible. This provision for the payment of a lump sum for service "not otherwise
10 creditable" shall apply, inter alia, to all purchases of service credits for months as to which timely
11 payments were not previously made pursuant to G.S. 58-86-35 or G.S. 58-86-40, whichever is
12 applicable, for any firefighter or rescue squad worker who is not yet 35 years of age or older and
13 who is a current or former member of a fire department or rescue squad chartered by the State of
14 North Carolina."

15 **SECTION 4.(d)** G.S. 58-86-55 reads as rewritten:

16 **"§ 58-86-55. Monthly pensions upon attaining the age of 55 years.**

17 (a) Any member who has served 20 years as an "eligible firefighter" or "eligible rescue
18 squad worker" in the State of North Carolina, as provided in G.S. 58-86-25 and G.S. 58-86-30,
19 and who has attained the age of 55 years is entitled to be paid a monthly pension from this fund.
20 The monthly pension shall be in the amount of ~~one hundred seventy dollars (\$170.00)~~ one
21 hundred eighty dollars (\$180.00) per month. Any retired firefighter receiving a pension shall,
22 effective ~~July 1, 2008,~~ July 1, 2021, receive a pension of ~~one hundred seventy dollars (\$170.00)~~
23 one hundred eighty dollars (\$180.00) per month.

24 (b) Members shall pay ~~ten dollars (\$10.00)~~ twenty dollars (\$20.00) per month as required
25 by G.S. 58-86-35 and G.S. 58-86-40 for a period of no longer than 20 years. No "eligible rescue
26 squad member" shall receive a pension prior to July 1, 1983.

27 (c) A member who is totally and permanently disabled while in the discharge of the
28 member's official duties as a result of bodily injuries sustained or as a result of extreme exercise
29 or extreme activity experienced in the course and scope of those official duties and who leaves
30 the fire or rescue squad service because of this disability shall be entitled to be paid from the fund
31 a monthly benefit in an amount of ~~one hundred seventy dollars (\$170.00)~~ one hundred eighty
32 dollars (\$180.00) per month beginning the first month after the member's fifty-fifth birthday. All
33 applications for disability are subject to the approval of the board who may appoint physicians
34 to examine and evaluate the disabled member prior to approval of the application, and annually
35 thereafter. Any disabled member shall not be required to make the monthly payment of ~~ten dollars~~
36 ~~(\$10.00)~~ twenty dollars (\$20.00) as required by G.S. 58-86-35 and G.S. 58-86-40.

37 (d) A member who is totally and permanently disabled for any cause, other than line of
38 duty, who leaves the fire or rescue squad service because of this disability and who has at least
39 10 years of service with the pension fund, may be permitted to continue making a monthly
40 contribution of ~~ten dollars (\$10.00)~~ twenty dollars (\$20.00) to the fund until the member has
41 made contributions for a total of 240 months. The member shall upon attaining the age of 55
42 years be entitled to receive a pension as provided by this section. All applications for disability
43 are subject to the approval of the board who may appoint physicians to examine and evaluate the
44 disabled member prior to approval of the application and annually thereafter.

45 (d1) Benefits shall be paid in the following manner when a member is killed in the line of
46 duty and the requirements of Article 12A of Chapter 143 of the General Statutes are met:

47 (1) If the member had been receiving a monthly pension fund benefit prior to
48 being killed in the line of duty, there shall be paid to the member's principal
49 beneficiary, if only one principal beneficiary is eligible and has not accepted
50 a return of contributions, an amount of ~~one hundred seventy dollars (\$170.00)~~

- 1 one hundred eighty dollars (\$180.00) per month beginning the month
2 following the member's month of death, payable until the beneficiary's death.
3 (2) If the member had been receiving a monthly pension fund benefit prior to
4 being killed in the line of duty and the beneficiary is not payable as described
5 in subdivision (1) of this subsection, a lump sum payment equal to the
6 difference between the amount paid into the member's separate account by or
7 on behalf of the member and the amount received by the member as a
8 pensioner will be paid to the eligible beneficiaries, or if there are no eligible
9 beneficiaries, shall be paid to the member's estate.
10 (3) If the member had not yet begun receiving a monthly benefit prior to being
11 killed in the line of duty, there shall be paid to the member's principal
12 beneficiary, if only one principal beneficiary is eligible and has not accepted
13 a return of contributions, an amount of ~~one hundred seventy dollars (\$170.00)~~
14 one hundred eighty dollars (\$180.00) per month beginning the month
15 following the month the member would have attained age 55, or if the member
16 had already attained age 55, beginning the month following the member's
17 month of death, payable until the beneficiary's death.
18 (4) If the member had not begun receiving a monthly benefit prior to being killed
19 in the line of duty and the beneficiary is not payable as described in
20 subdivision (3) of this subsection, a lump sum payment equal to the member's
21 contributions will be paid to the eligible beneficiaries, or if there are no
22 eligible beneficiaries, a return of the contributions shall be paid to the
23 member's estate.

24 A beneficiary under this subsection shall not be required to make the monthly payment of ~~ten~~
25 ~~dollars (\$10.00)~~ twenty dollars (\$20.00) as required by G.S. 58-86-35 and G.S. 58-86-40 after
26 the member has been killed in the line of duty.

27 (d2) Repealed by Session Laws 2016-108, s. 1(f), effective July 1, 2018.

28 (e) A member who, because the member's residence is annexed by a city under Part 2 or
29 Part 3 of Article 4A of Chapter 160A of the General Statutes, or whose department is closed
30 because of an annexation by a city under Part 2 or Part 3 of Article 4A of Chapter 160A of the
31 General Statutes, or whose volunteer department is taken over by a city or county, and because
32 of such annexation or takeover is unable to perform as a firefighter or rescue squad worker of
33 any status, and if the member has at least 10 years of service with the pension fund, may be
34 permitted to continue making a monthly contribution of ~~ten dollars (\$10.00)~~ twenty dollars
35 (\$20.00) to the fund until the member has made contributions for a total of 240 months. The
36 member upon attaining the age of 55 years and completion of such contributions shall be entitled
37 to receive a pension as provided by this section. Any application to make monthly contributions
38 under this section shall be subject to a finding of eligibility by the Board of Trustees upon
39 application of the member.

40 "

41 **SECTION 4.(e)** Subsections (a) through (d) of this section become effective January
42 1, 2022, and apply to monthly payments into the Firefighters' and Rescue Squad Workers'
43 Pension Fund for months of service on or after that date.
44

45 **PART V. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

46 **SECTION 5.1.** If any section or provision of this act is declared unconstitutional or
47 invalid by the courts, it does not affect the validity of this act as a whole or any part other than
48 the part declared to be unconstitutional or invalid.

49 **SECTION 5.2.** Except as otherwise provided, this act is effective when it becomes
50 law.