

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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SENATE BILL 257
Appropriations/Base Budget Committee Substitute Adopted with unengrossed
amendments 5/10/17
Finance Committee favorable with unengrossed amendments 5/10/17
Pensions and Retirement and Aging Committee Substitute Adopted 5/10/17
Third Edition Engrossed 5/12/17
Corrected Copy 5/15/17
House Committee Substitute Favorable 5/30/17

Short Title: Appropriations Act of 2017.

(Public)

Sponsors:

Referred to:

March 15, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO MAKE BASE BUDGET APPROPRIATIONS FOR CURRENT OPERATIONS
3 OF STATE DEPARTMENTS, INSTITUTIONS, AND AGENCIES AND FOR OTHER
4 PURPOSES.

5 The General Assembly of North Carolina enacts:

6
7 **TITLE OF ACT**

8 **SECTION 1.1.** This act shall be known as the "Current Operations and Capital
9 Improvements Appropriations Act of 2017."

10
11 **INTRODUCTION**

12 **SECTION 1.2.** The appropriations made in this act are for maximum amounts
13 necessary to provide the services and accomplish the purposes described in the budget in
14 accordance with the State Budget Act. Savings shall be effected where the total amounts
15 appropriated are not required to perform these services and accomplish these purposes, and the
16 savings shall revert to the appropriate fund at the end of each fiscal year, except as otherwise
17 provided by law.

18
19 **SHORT-TERM LEASE OR RENTAL PROCEEDS**

20 **SECTION 2.2.(g)** Notwithstanding G.S. 105-187.9(a), taxes collected under
21 Article 5A of Chapter 105 of the General Statutes at the rate of eight percent (8%) shall be
22 credited to the Highway Fund.

23 **SECTION 2.2.(h)** Subsection (g) of this section is effective July 1, 2017, and
24 applies to taxes collected on or after that date. Subsection (g) of this section expires June 30,
25 2019.

26
27 **PROVIDER APPLICATION AND RECREDENTIALING FEE**

28 **SECTION 11H.3.** Chapter 108C of the General Statutes is amended by adding a
29 new section to read:

30 **"§ 108C-2.1. Provider application and recredentialing fee.**



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1 (a) Each provider that submits an application to enroll in the Medicaid program shall
2 submit an application fee. The application fee shall be the sum of the amount federally required
3 and one hundred dollars (\$100.00).

4 (b) The fee required under subsection (a) of this section shall be charged to all providers
5 at recredentialing every five years."

7 **PROFESSIONAL SUPPLEMENTAL PAYMENT ASSESSMENT**

8 **SECTION 11H.24.(a)** Notwithstanding any other provision of law, in order to
9 continue the supply of well-trained clinicians who practice and provide access to high-quality
10 care for Medicaid patients across the State, the Department of Health and Human Services
11 (Department) shall amend the Medicaid State Plan, Attachment 4.19-B, Section 5, Pages 2 and
12 3, which pertains to supplemental payments, to replace the existing definition of "eligible
13 medical professional providers" under subsection (c)(2) so as to expand the eligible medical
14 professionals to include those Medicaid-enrolled North Carolina physicians, advanced care
15 practitioners, and other related professionals who are employed or contracted by (i)
16 State-operated schools of medicine, (ii) the University of North Carolina Health Care System,
17 (iii) University Health Systems of Eastern Carolina, doing business as Vidant Health, (iv) any
18 entity controlled by or under common control, including common operational control, with a
19 hospital that qualifies to certify expenditures or a public hospital, (v) any entity controlled by or
20 under common control, including common operational control, with a hospital that qualifies for
21 Equity Enhanced Payments under the Medicaid State Plan, Attachment 4.19-B, Section 2,
22 Pages 1a and 1b, or (vi) the faculty practice plan associated with Duke University. The
23 Department shall further condition eligibility for contracted eligible professionals upon a
24 demonstration that the contracts account for at least eighty percent (80%) of net professional
25 fees from commercial payers or that the contracts address the overall financial risk of the
26 professional's practice or group.

27 The Department shall submit the State Plan Amendment required by this subsection
28 to the Centers for Medicare and Medicaid Services (CMS) no later than October 1, 2017. The
29 Department shall not implement the requirements of this subsection until approval of the
30 Medicaid State Plan Amendment required by this subsection is obtained from CMS.

31 **SECTION 11H.24.(b)** G.S. 108A-121 is reads as rewritten:

32 **"§ 108A-121. Definitions.**

33 The following definitions apply in this Article:

- 34 (1) CMS. – Centers for Medicare and Medicaid Services.
- 35 (2) Critical access hospital. – Defined in 42 C.F.R. § 400.202.
- 36 (3) Department. – The Department of Health and Human Services.
- 37 (4) Equity assessment. – The assessment payable under G.S. 108A-123.
- 38 (5) Medicaid equity payment. – The amount required to be paid under
39 G.S. 108A-124.
- 40 (5a) Professional supplemental payment. – The amount required to be paid under
41 G.S. 108A-124.
- 42 (5b) Professional supplemental payment assessment. – The assessment payable
43 under G.S. 108A-123.
- 44 (6) Public hospital. – A hospital that certifies its public expenditures to the
45 Department pursuant to 42 C.F.R. § 433.51(b) during the fiscal year for
46 which the assessment applies.
- 47 (7) Secretary. – The Secretary of Health and Human Services.
- 48 (8) State's annual Medicaid payment. – For an assessment collected under this
49 Article, an amount equal to twenty-eight and eighty-five ~~one~~ hundredths
50 percent (28.85%) of the total amount collected under the assessment.

- 1 (9) Total hospital costs. – The costs as calculated using the most recent available
 2 Hospital Cost Report Information Systems cost report data, available
 3 through CMS, or other comparable data.
 4 (10) Upper pay limit (UPL). – The maximum ceiling imposed by federal
 5 regulation on hospital Medicaid payments under 42 C.F.R. § 447.272 for
 6 inpatient services.
 7 (11) UPL assessment. – The assessment payable under G.S. 108A-123.
 8 (12) UPL gap. – The difference between the UPL attributable to hospital inpatient
 9 services and the reasonable costs of inpatient hospital services as defined in
 10 Section (f)(2)(A) on page 11 of Attachment 4.19-A of the State Medicaid
 11 Plan as approved on December 15, 2005.
 12 (13) UPL payment. – The amount required to be paid under G.S. 108A-124."

13 **SECTION 11H.24.(c)** G.S. 108A-122 reads as rewritten:

14 **"§ 108A-122. ~~Assessment.~~ Assessment percentage.**

15 (a) Assessment Imposed. – Except as provided in this section, the assessments
 16 authorized under this Article are imposed as a percentage of total hospital costs on all licensed
 17 North Carolina hospitals. The assessments are due quarterly in the time and manner prescribed
 18 by the Secretary. Payment of an assessment is considered delinquent if not paid within seven
 19 days of the due date. With respect to any past-due assessment, the Department may withhold
 20 the unpaid amount from Medicaid payments otherwise due or impose a late-payment penalty.
 21 The Secretary may waive a penalty for good cause shown.

22 (b) Allowable Cost. – An assessment paid under this Article may be included as
 23 allowable costs of a hospital for purposes of any applicable Medicaid reimbursement formula;
 24 assessments paid under this Article shall be excluded from cost settlement. An assessment
 25 imposed under this Article may not be added as a surtax or assessment on a patient's bill.

26 (c) Full Exemption. – The following hospitals are exempt from both the equity
 27 assessment and the UPL assessment:

- 28 (1) State-owned and State-operated hospitals.
 29 (2) The primary affiliated teaching hospital for each University of North
 30 Carolina medical school.
 31 (3) Critical access hospitals.
 32 (4) Long-term care hospitals.
 33 (5) Freestanding psychiatric hospitals.
 34 (6) Freestanding rehabilitation hospitals.

35 (d) Partial Equity Assessment Exemption. – A public hospital is exempt from the equity
 36 assessment.

37 (e) Partial Professional Supplemental Payment Assessment Exemption. – All of the
 38 following hospitals are exempt from the professional supplemental payment assessment:

- 39 (1) Critical access hospitals.
 40 (2) Freestanding psychiatric hospitals.
 41 (3) Freestanding rehabilitation hospitals.
 42 (4) Hospitals owned by the University Health Systems of Eastern Carolina
 43 doing business as Vidant Health.
 44 (5) Hospitals owned by the University of North Carolina Health Care System.
 45 (6) Long-term care hospitals.
 46 (7) Public hospitals.
 47 (8) State-owned and State-operated hospitals."

48 **SECTION 11H.24.(d)** G.S. 108A-123 reads as rewritten:

49 **"§ 108A-123. Assessment amount.**

50 (a) Annual Calculation. – The Secretary must annually calculate the equity assessment
 51 amount and amount, the UPL assessment amount–amount, and the professional supplemental

1 payment assessment amount for each hospital subject to the respective assessment. Each
2 assessment must comply with applicable federal regulations and may be prorated for any partial
3 year.

4 The Secretary must notify each hospital that is assessed the amount of its individual UPL
5 assessment amount and, if applicable, its individual equity assessment amount and its
6 individual professional supplemental payment assessment. The notice must include all of the
7 following:

8 (1) The applicable assessment rates.

9 (2) The hospital costs on which the hospital's assessments are based.

10 (3) The elements of the calculation of the hospital's UPL.

11 (b) Total Equity Assessment Assessment Amount. – The equity assessment consists of
12 both inpatient and outpatient components. The equity assessment percentage rate must be
13 calculated to produce an aggregate annual amount equal to the following:

14 (1) The amount needed ~~to make for the nonfederal share of~~ the Medicaid equity
15 payments under G.S. 108-124.

16 (2) The applicable portion of the State's annual Medicaid payment, as provided
17 in subsection (d) of this section.

18 (c) Total UPL Assessment Assessment Amount. – The UPL assessment consists of both
19 inpatient and outpatient components. The UPL assessment percentage rate must be calculated
20 to produce an aggregate annual amount equal to the following:

21 (1) The amount needed ~~to make for the nonfederal share of~~ the UPL payments
22 under G.S. 108A-124.

23 (2) The applicable portion of the State's annual Medicaid payment, as provided
24 in subsection (d) of this section.

25 (c1) Total Professional Supplemental Payment Assessment Amount. – The professional
26 supplemental payment assessment consists of both inpatient and outpatient components. The
27 professional supplemental payment assessment percentage rate must be calculated to produce
28 an aggregate amount equal to the total of the following:

29 (1) The amount needed for the nonfederal share of the Medicaid professional
30 supplemental payments under G.S.108A-124(b)(4)a.

31 (2) The applicable portion of the State's annual Medicaid payment, as provided
32 in subsection (d) of this section.

33 (d) State's Annual Medicaid Payment. – The first forty-three million dollars
34 (\$43,000,000) of the State's annual Medicaid payment must be allocated between the equity
35 assessment and the UPL assessment based on the amount of gross payments received by
36 hospitals under ~~G.S. 108A-124~~.G.S. 108A-124(b)(1) and G.S. 108A-124(b)(2). A portion of the
37 State's annual Medicaid payment equal to twenty-eight and eighty-five hundredths percent
38 (28.85%) of the amount needed under subdivision (1) of subsection (c1) of this section must be
39 allocated to the professional supplemental payment assessment. The remaining portion of the
40 State's annual Medicaid payment must be allocated to the UPL assessment.

41 (e) Appeal. – A hospital may appeal an assessment determination through a
42 reconsideration review. The pendency of an appeal does not relieve a hospital from its
43 obligation to pay an assessment amount when due."

44 **SECTION 11H.24.(e)** G.S. 108A-124 reads as rewritten:

45 "**§ 108A-124. Use of assessment proceeds.**

46 (a) Use. – The proceeds of the assessments imposed under this Article and all
47 corresponding matching federal funds must be used to make the State annual Medicaid
48 payment to the State and the Medicaid equity ~~payments and payments,~~ professional
49 supplemental payments, and UPL payments to hospitals.

50 (b) Quarterly Payments. – Within seven business days following the due date for each
51 quarterly assessment imposed under G.S. 108A-123, the Secretary must do the following:

- 1 (1) Pay to each hospital that has paid its equity assessment for the respective
 2 quarter twenty-five percent (25%) of its Medicaid equity payment amount. A
 3 hospital's Medicaid equity payment amount is the sum of the hospital's
 4 Medicaid inpatient and outpatient deficits after calculating all other
 5 Medicaid payments, excluding disproportionate share hospital payments and
 6 the UPL payment remitted to the hospital under subdivision (2) of this
 7 ~~subsection-subsection and any professional supplemental payments remitted~~
 8 to hospitals under sub-subdivision a. of subdivision (4) of this subsection.
- 9 (2) Pay to the primary affiliated teaching hospital for the East Carolina
 10 University Brody School of Medicine, to the critical access hospitals, and to
 11 each hospital that has paid its UPL assessment for the respective quarter
 12 twenty-five percent (25%) of its UPL payment amount, as determined under
 13 subsection (c) of this section.
- 14 ~~(3) Pay to the primary affiliated teaching hospital for the East Carolina~~
 15 ~~University Brody School of Medicine, to the critical access hospitals, and to~~
 16 ~~each hospital that has paid its UPL assessment for the respective quarter~~
 17 ~~twenty-five percent (25%) of its UPL payment amount, as determined under~~
 18 ~~subsection (c) of this section.~~
- 19 (4) Pay, for the respective quarter, twenty-five percent (25%) of the hospital's
 20 professional supplemental payment amount to the following hospitals:
- 21 a. Each hospital (i) that is a critical access hospital or a hospital that has
 22 paid the required professional supplemental payment assessment and
 23 (ii) that has eligible professionals.
- 24 b. Each hospital that is not a critical access hospital, that is exempt from
 25 payment of a professional supplemental payment assessment under
 26 G.S. 108A-122(e), and that has eligible professionals.
- 27 A professional supplemental payment amount is the amount calculated
 28 pursuant to the Medicaid State Plan.

29 (c) UPL Payment Amount. – The aggregate UPL payments made to eligible hospitals
 30 that are public hospitals is the sum of the UPL gaps for all public hospitals. The aggregate UPL
 31 payments made to eligible hospitals that are not public hospitals is the sum of the UPL gaps for
 32 these hospitals. UPL payments are payable to the individual hospitals in the ratio of each
 33 hospital's Medicaid inpatient costs to the total Medicaid inpatient costs for the respective group.

34 (d) Refund of Assessment. – If all or any part of a payment required to be made under
 35 this section is not made to one or more hospitals when due, the Secretary must promptly refund
 36 to each such hospital the corresponding assessment proceeds collected in proportion to the
 37 amount of assessment paid by that hospital."

38 **SECTION 11H.24.(f)** Article 7 of Chapter 108A of the General Statutes is
 39 amended by adding a new section to read:

40 **"§ 108A-129. Required intergovernmental transfers.**

41 Any hospital that (i) is not a critical access hospital, (ii) is exempt under G.S. 108A-122(e)
 42 from the professional supplemental payment assessment, and (iii) is eligible to receive a
 43 professional supplemental payment shall make an intergovernmental transfer to the Department
 44 in an amount equal to the nonfederal share of the amount needed to make the professional
 45 supplemental payment to that hospital."

46 **SECTION 11H.24.(g)** The Medicaid Retention Fund is established as a special
 47 fund in the Office of State Budget and Management. The Department of Health and Human
 48 Services, Division of Medicaid Assistance, shall transfer any receipts attributable to an increase
 49 in the State's annual Medicaid payment under G.S. 108A-121(8) resulting from the professional
 50 supplemental payment assessment under G.S. 108A-123(c1), as enacted by subsection (d) of
 51 this section, to the Medicaid Retention Fund.

1 **SECTION 11H.24.(h)** If the Department of Health and Human Services, Division
2 of Medical Assistance (Department), has receipts resulting from the professional supplemental
3 payment assessment under G.S. 108A-123(c1), as enacted by subsection (d) of this section, that
4 are not required to be transferred to the Medicaid Retention Fund in accordance with subsection
5 (g) of this section, then those receipts shall be used to make the professional supplement
6 payments required under G.S. 108A-124, as amended by subsection (e) of section.

7 **SECTION 11H.24.(i)** Subsections (b) through (f) of this section are effective upon
8 approval by the Centers for Medicare and Medicaid Services (CMS) of the Medicaid State Plan
9 amendment required by subsection (a) of this section. The Secretary of the Department of
10 Health and Human Services shall certify to the Revisor of Statutes that approval by CMS of the
11 State Plan amendment has occurred and shall provide notice of State Plan amendment approval
12 by posting the effective date of the change on its Web site. The remainder of this section
13 becomes effective July 1, 2017.

14 15 **MODIFY LICENSE FEES REQUIRED TO HUNT, FISH, OR TRAP**

16 **SECTION 13A.3** G.S. 113-270.1B(e) reads as rewritten:

17 "(e) The Wildlife Resources Commission shall adopt rules to establish fees for the
18 hunting, fishing, trapping, and activity licenses issued and administered by the Wildlife
19 Resources Commission. No rule to increase fees above January 1, 2015, levels may increase a
20 fee in excess of the ~~average~~total increase in the Consumer Price Index for All Urban
21 Consumers over the ~~preceding five years~~period of time since the last fee change.

22 The statutory fees for the hunting, fishing, trapping, and activity licenses issued and
23 administered by the Wildlife Resources Commission shall expire when the rules adopted
24 pursuant to this subsection become effective."
25

26 **INDUSTRIAL COMMISSION CASE MANAGEMENT SYSTEMS**

27 **SECTION 15.19.(a)** The Industrial Commission shall coordinate with the
28 Department of Information Technology and other State agencies to replace the Industrial
29 Commission's case management systems by assessing system requirements and to find the most
30 cost-effective means of meeting those requirements.

31 **SECTION 15.19.(b)** Of the funds appropriated in this act to the Industrial
32 Commission, the sum of three million dollars (\$3,000,000) in nonrecurring funds for the
33 2017-2018 fiscal year shall be allocated for the purpose of replacing and maintaining the
34 Industrial Commission's case management systems and related expenditures.

35 **SECTION 15.19.(c)** The Industrial Commission may retain the additional revenue
36 up to one million two hundred thousand dollars (\$1,200,000) of the fee charged to parties for
37 the filing of compromise settlement agreements to be used for the purpose of replacing and
38 maintaining the Industrial Commission's case management systems and related expenditures.

39 **SECTION 15.19.(d)** The funds in subsection (b) of this section shall not revert.
40 The fee retention authorization in subsection (c) of this section shall expire on June 30, 2021.

41 42 **DIGITAL FORENSICS INCLUDED IN COURT COSTS**

43 **SECTION 18B.5.(a)** G.S. 7A-304(a) reads as rewritten:

44 "(a) In every criminal case in the superior or district court, wherein the defendant is
45 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
46 prosecuting witness, the following costs shall be assessed and collected. No costs may be
47 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
48 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
49 assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8),
50 (8a), (11), (12), or (13) of this section.

51 ...

1 (9a) For the services of the North Carolina State Crime Laboratory facilities, the
 2 district or superior court judge shall, upon conviction, order payment of the
 3 sum of six hundred dollars (\$600.00) to be remitted to the Department of
 4 Justice to be used for laboratory purposes. This cost shall be assessed only in
 5 cases in which, as part of the investigation leading to the defendant's
 6 conviction, the laboratories have performed digital forensics, including the
 7 seizure, forensic imaging, and acquisition and analysis of digital media.

8 (9b) For the services of any crime laboratory facility operated by a local
 9 government or group of local governments, the district or superior court
 10 judge shall, upon conviction, order payment of the sum of six hundred
 11 dollars (\$600.00) to be remitted to the general fund of the local law
 12 enforcement unit to be used for laboratory purposes. The cost shall be
 13 assessed only (i) in cases in which, as part of the investigation leading to the
 14 defendant's conviction, the laboratory has performed digital forensics,
 15 including the seizure, forensic imaging, and acquisition and analysis of
 16 digital media, and (ii) if the court finds that the work performed at the local
 17 government's laboratory is the equivalent of the same kind of work
 18 performed by the North Carolina State Crime Laboratory under subdivision
 19 (9a) of this subsection.

20 ...

21 (11) For the services of an expert witness employed by the North Carolina State
 22 Crime Laboratory who completes a chemical analysis pursuant to ~~G.S.~~
 23 ~~20-139.1~~ ~~or~~ ~~a~~ G.S. 20-139.1, a forensic analysis pursuant to ~~G.S.~~
 24 ~~8-58.20~~ G.S. 8-58.20, or a digital forensics analysis and provides testimony
 25 about that analysis in a defendant's trial, the district or superior court judge
 26 shall, upon conviction of the defendant, order payment of the sum of six
 27 hundred dollars (\$600.00) to be remitted to the Department of Justice for
 28 support of the State Crime Laboratory. This cost shall be assessed only in
 29 cases in which the expert witness provides testimony about the chemical or
 30 forensic analysis in the defendant's trial and shall be in addition to any cost
 31 assessed under subdivision (7) or (9a) of this subsection.

32 (12) For the services of an expert witness employed by a crime laboratory
 33 operated by a local government or group of local governments who
 34 completes a chemical analysis pursuant to ~~G.S. 20-139.1~~ ~~or~~ ~~a~~ G.S. 20-139.1,
 35 a forensic analysis pursuant to ~~G.S. 8-58.20~~ G.S. 8-58.20, or a digital
 36 forensics analysis and provides testimony about that analysis in a defendant's
 37 trial, the district or superior court judge shall, upon conviction of the
 38 defendant, order payment of the sum of six hundred dollars (\$600.00) to be
 39 remitted to the general fund of the local governmental unit that operates the
 40 laboratory to be used for the local law enforcement ~~enforcement~~ laboratory.
 41 This cost shall be assessed only in cases in which the expert witness
 42 provides testimony about the chemical or forensic analysis in the defendant's
 43 trial and shall be in addition to any cost assessed under subdivision (8) or
 44 (9b) of this subsection.

45 "

46 **SECTION 18B.5.(b)** This section is effective when it becomes law.

47
 48 **ELIMINATE ACCESS TO CIVIL JUSTICE FUNDS**

49 **SECTION 18B.10.(a)** G.S. 7A-304(a) reads as rewritten:

50 "**§ 7A-304. Costs in criminal actions.**

1 (a) In every criminal case in the superior or district court, wherein the defendant is
 2 convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed against the
 3 prosecuting witness, the following costs shall be assessed and collected. No costs may be
 4 assessed when a case is dismissed. Only upon entry of a written order, supported by findings of
 5 fact and conclusions of law, determining that there is just cause, the court may (i) waive costs
 6 assessed under this section or (ii) waive or reduce costs assessed under subdivision (7), (8),
 7 (8a), (11), (12), or (13) of this section.

8 ...
 9 (4) For support of the General Court of Justice, the sum of one hundred
 10 forty-seven dollars and fifty cents (\$147.50) in the district court, including
 11 cases before a magistrate, and the sum of one hundred fifty-four dollars and
 12 fifty cents (\$154.50) in the superior court, to be remitted to the State
 13 Treasurer. For a person convicted of a felony in superior court who has made
 14 a first appearance in district court, both the district court and superior court
 15 fees shall be assessed. The State Treasurer shall remit the sum of ~~one dollar~~
 16 ~~and fifty cents (\$1.50) of each fee collected under this subdivision to the~~
 17 ~~North Carolina State Bar for the provision of services described in G.S.~~
 18 ~~7A-474.4, and ninety-five cents (\$.95) of each fee collected under this~~
 19 ~~subdivision to the North Carolina State Bar for the provision of services~~
 20 ~~described in G.S. 7A-474.19.~~

21"

22 **SECTION 18B.10.(b)** G.S. 7A-305(a) reads as rewritten:

23 **"§ 7A-305. Costs in civil actions.**

24 (a) In every civil action in the superior or district court, except for actions brought
 25 under Chapter 50B of the General Statutes, shall be assessed:

26 ...
 27 (2) For support of the General Court of Justice, the sum of one hundred eighty
 28 dollars (\$180.00) in the superior court and the sum of one hundred thirty
 29 dollars (\$130.00) in the district court except that if the case is assigned to a
 30 magistrate the sum shall be eighty dollars (\$80.00). If a case is designated as
 31 a mandatory complex business case under G.S. 7A-45.4, upon assignment to
 32 a Business Court Judge, the party filing the designation shall pay an
 33 additional one thousand one hundred dollars (\$1,100) for support of the
 34 General Court of Justice. If a case is designated as a complex business case
 35 under Rule 2.1 and Rule 2.2 of the General Rules of Practice for the Superior
 36 and District Courts, upon assignment to a Business Court Judge, the plaintiff
 37 shall pay an additional one thousand one hundred dollars (\$1,100) for
 38 support of the General Court of Justice. Sums collected under this
 39 subdivision shall be remitted to the State Treasurer. The State Treasurer shall
 40 remit the sum of ~~one dollar and fifty cents (\$1.50) of each fee collected~~
 41 ~~under this subdivision to the North Carolina State Bar for the provision of~~
 42 ~~services described in G.S. 7A-474.4, and ninety-five cents (\$.95) of each fee~~
 43 ~~collected under this subdivision to the North Carolina State Bar for the~~
 44 ~~provision of services described in G.S. 7A-474.19."~~

45 **SECTION 18B.10.(c)** Article 37A of Chapter 7A of the General Statutes is
 46 repealed.

47 **SECTION 18B.10.(d)** This section is effective when it becomes law.

48 **INSURANCE REGULATORY CHARGE**
 49

1 **SECTION 22.1.** The percentage rate to be used in calculating the insurance
2 regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2018 calendar
3 year.
4

5 **DMV/HEARING FEE IMPLEMENTATION REVISIONS**

6 **SECTION 34.32.(a)** Section 34.9 of S.L. 2014-100, as amended by Section
7 29.30A of S.L. 2015-241, reads as rewritten:

8 **"SECTION 34.9.(a)** The Department of Transportation, Division of Motor Vehicles, shall
9 develop a plan and proposed schedule of fees to recover a portion of the direct and indirect
10 costs incurred for the performance of administrative hearings required by law or under rules
11 adopted ~~by the Board of Transportation under G.S. 20-2(b)~~. The plan and proposed schedule
12 shall address, at a minimum, the following:

- 13 (1) Current hearing process and recommended modifications to achieve cost
14 efficiencies, including proposed revisions to existing laws or rules.
- 15 (2) Historical and projected funding requirements for each category of hearing
16 performed by the Division.
- 17 (3) Schedule of fees and projected receipts.
- 18 (4) Proposed processes and rules for the collection of fees and the refunding of
19 fees for hearings initiated by the Division in which the original decision of
20 the Division is reversed.
- 21 (5) Implementation milestones.

22 ...
23 **"SECTION 34.9.(c)** From funds appropriated to the Department of Transportation,
24 Information Technology Section for the 2014-2015 fiscal year, the Department shall implement
25 modifications to supporting information technology systems necessary to timely implement the
26 hearing fee schedule required by subsection (a) of this section. The Department shall
27 implement the hearing fee schedule required by subsection (a) of this section by no later than
28 ~~July 1, 2017.~~ January 1, 2018."

29 **SECTION 34.32.(b)** Rules. – The Division of Motor Vehicles may adopt
30 temporary rules to implement the provisions of Section 34.9 of S.L. 2014-100, as amended by
31 Section 29.30A of S.L. 2015-241 and subsection (a) of this section. Temporary rules adopted in
32 accordance with this section shall remain in effect until permanent rules that replace the
33 temporary rules become effective.
34

35 **SALARY-RELATED CONTRIBUTIONS**

36 **SECTION 35.19.(a)** Effective for the 2017-2019 fiscal biennium, required
37 employer salary-related contributions for employees whose salaries are paid from department,
38 office, institution, or agency receipts shall be paid from the same source as the source of the
39 employee's salary. If an employee's salary is paid in part from the General Fund or Highway
40 Fund and in part from department, office, institution, or agency receipts, required employer
41 salary-related contributions may be paid from the General Fund or Highway Fund only to the
42 extent of the proportionate part paid from the General Fund or Highway Fund in support of the
43 salary of the employee, and the remainder of the employer's requirements shall be paid from the
44 source that supplies the remainder of the employee's salary. The requirements of this section as
45 to source of payment are also applicable to payments on behalf of the employee for hospital
46 medical benefits, longevity pay, unemployment compensation, accumulated leave, workers'
47 compensation, severance pay, separation allowances, and applicable disability income benefits.

48 **SECTION 35.19.(b)** Effective July 1, 2017, the State's employer contribution rates
49 budgeted for retirement and related benefits as a percentage of covered salaries for the
50 2017-2018 fiscal year for teachers and State employees, State law enforcement officers (LEOs),
51 the University and Community Colleges Optional Retirement Programs (ORPs), the

1 Consolidated Judicial Retirement System (CJRS), and the Legislative Retirement System
 2 (LRS) are as set forth below:

	Teachers and State Employees	State LEOs	ORPs	CJRS	LRS
6 Retirement	10.85%	10.85%	6.84%	31.26%	19.35%
7 Disability	0.14%	0.14%	0.14%	0.00%	0.00%
8 Death	0.16%	0.16%	0.00%	0.00%	0.00%
9 Retiree Health	6.06%	6.06%	6.06%	6.06%	6.06%
10 NC 401(k)	0.00%	5.00%	0.00%	0.00%	0.00%

11
 12 **Total Contribution**

13 Rate	17.21%	22.21%	13.04%	37.32%	25.41%
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14 The rate for teachers and State employees and State law enforcement officers
 15 includes one one-hundredth percent (0.01%) for the Qualified Excess Benefit Arrangement.

16 **SECTION 35.19.(c)** Effective July 1, 2018, the State's employer contribution rates
 17 budgeted for retirement and related benefits as a percentage of covered salaries for the
 18 2018-2019 fiscal year for teachers and State employees, State law enforcement officers (LEOs),
 19 the University and Community Colleges Optional Retirement Programs (ORPs), the
 20 Consolidated Judicial Retirement System (CJRS), and the Legislative Retirement System
 21 (LRS) are as set forth below:

	Teachers and State Employees	State LEOs	ORPs	CJRS	LRS
25 Retirement	11.44%	11.44%	6.84%	31.40%	18.27%
26 Disability	0.14%	0.14%	0.14%	0.00%	0.00%
27 Death	0.16%	0.16%	0.00%	0.00%	0.00%
28 Retiree Health	6.28%	6.28%	6.28%	6.28%	6.28%
29 NC 401(k)	0.00%	5.00%	0.00%	0.00%	0.00%

30
 31 **Total Contribution**

32 Rate	18.02%	23.02%	13.26%	37.68%	24.55%
----------------	--------	--------	--------	--------	--------

33 The rate for teachers and State employees and State law enforcement officers
 34 includes one one-hundredth percent (0.01%) for the Qualified Excess Benefit Arrangement.

35 **SECTION 35.19.(d)** Effective July 1, 2017, the maximum annual employer
 36 contributions, payable monthly, by the State for each covered employee or retiree for the
 37 2017-2018 fiscal year to the State Health Plan for Teachers and State Employees are (i)
 38 Medicare-eligible employees and retirees – four thousand five hundred sixty dollars (\$4,560)
 39 and (ii) non-Medicare-eligible employees and retirees – five thousand eight hundred sixty-nine
 40 dollars (\$5,869).

41 **SECTION 35.19.(e)** Effective July 1, 2018, the maximum annual employer
 42 contributions, payable monthly, by the State for each covered employee or retiree for the
 43 2018-2019 fiscal year to the State Health Plan for Teachers and State Employees are (i)
 44 Medicare-eligible employees and retirees – four thousand seven hundred forty-three dollars
 45 (\$4,743) and (ii) non-Medicare-eligible employees and retirees – six thousand one hundred four
 46 dollars (\$6,104).

47
 48 **PROVIDE ONE-TIME COST-OF-LIVING SUPPLEMENT FOR RETIREES OF THE**
 49 **TEACHERS' AND STATE EMPLOYEES' RETIREMENT SYSTEM, THE**
 50 **CONSOLIDATED JUDICIAL RETIREMENT SYSTEM, AND THE LEGISLATIVE**
 51 **RETIREMENT SYSTEM**

1 **SECTION 35.19A.(a)** G.S. 135-5 is amended by adding a new subsection to read:
2 "(vvv) On or before October 31, 2017, a one-time cost-of-living supplement payment shall
3 be made to or on account of beneficiaries who are living as of September 1, 2017, and whose
4 retirement commenced on or before September 1, 2017. The payment shall be one and
5 six-tenths percent (1.6%) of the beneficiary's annual retirement allowance payable as of
6 September 1, 2017, and shall not be prorated for date of retirement commencement. If the
7 beneficiary dies before the payment is made, then the payment shall be payable to the member's
8 legal representative. No beneficiary shall be deemed to have acquired a vested right to any
9 future supplemental payments."

10 **SECTION 35.19A.(b)** G.S. 135-65 is amended by adding a new subsection to
11 read:

12 "(gg) On or before October 31, 2017, a one-time cost-of-living supplement payment shall
13 be made to or on account of beneficiaries who are living as of September 1, 2017, and whose
14 retirement commenced on or before September 1, 2017. The payment shall be one and
15 six-tenths percent (1.6%) of the beneficiary's annual retirement allowance payable as of
16 September 1, 2017, and shall not be prorated for date of retirement commencement. If the
17 beneficiary dies before the payment is made, then the payment shall be payable to the member's
18 legal representative. No beneficiary shall be deemed to have acquired a vested right to any
19 future supplemental payments."

20 **SECTION 35.19A.(c)** G.S. 120-4.22A is amended by adding a new subsection to
21 read:

22 "(aa) In accordance with subsection (a) of this section, on or before October 31, 2017, a
23 one-time cost-of-living supplement payment shall be made to or on account of beneficiaries
24 who are living as of September 1, 2017, and whose retirement commenced on or before
25 September 1, 2017. The payment shall be one and six-tenths percent (1.6%) of the beneficiary's
26 annual retirement allowance payable as of September 1, 2017, and shall not be prorated for date
27 of retirement commencement. If the beneficiary dies before the payment is made, then the
28 payment shall be payable to the member's legal representative. No beneficiary shall be deemed
29 to have acquired a vested right to any future supplemental payments."

30 **SECTION 35.19A.(d)** Notwithstanding any other provision of law to the contrary,
31 in order to administer the one-time cost-of-living supplement for retirees provided for in
32 subsections (a), (b), and (c) of this section, the Retirement Systems Division of the Department
33 of State Treasurer may increase receipts from the retirement assets of the corresponding
34 retirement system or pay costs associated with the administration of the payment directly from
35 the retirement assets.

36
37 **ENHANCE THE BENEFITS OF PROBATION/PAROLE OFFICERS WHO ARE**
38 **MEMBERS OF THE TEACHERS' AND STATE EMPLOYEES' RETIREMENT**
39 **SYSTEM**

40 **SECTION 35.19B.(a)** G.S. 135-1 reads as rewritten:

41 **"§ 135-1. Definitions.**

42 The following words and phrases as used in this Chapter, unless a different meaning is
43 plainly required by the context, shall have the following meanings:

44 ...

45 (11c) "Law-Enforcement Officer" means a full-time paid employee of an employer
46 who is actively serving in a position with assigned primary duties and
47 responsibilities for prevention and detection of crime or the general
48 enforcement of the criminal laws of the State of North Carolina or serving
49 civil processes, and who possesses the power of arrest by virtue of an oath
50 administered under the authority of the State. "Law-Enforcement Officer"

also means a probation/parole officer as defined in this section with respect to any service rendered on or after July 1, 2017.

...
 (17a) "Probation/Parole Officer" shall mean a full-time paid employee of the Division of Adult Correction of the Department of Public Safety whose duties include supervising, evaluating, or otherwise instructing offenders who have been placed on probation, parole, or post-release supervision or have been assigned to any other community-based program operated by the Division of Adult Correction.

...."

SECTION 35.19B.(b) G.S. 143-166.41(b) reads as rewritten:

"(b) As used in this section, "creditable service" means the service for which credit is allowed under the retirement system of which the officer is a member, provided that at least fifty percent (50%) of the service is as a law enforcement officer as herein ~~defined~~defined or as a probation/parole officer as defined in G.S. 135-1(17a)."

SECTION 35.19B.(c) This section becomes effective July 1, 2017, and applies to persons retiring on or after that date.

PART XXXVIII. FINANCE PROVISIONS

INCREASE STANDARD DEDUCTION

SECTION 38.2.(a) G.S. 105-153.5(a)(1) 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 that the taxpayer claimed under the Code. The deduction amounts are as follows:

- (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	\$17,500 <u>\$18,500</u>
Head of Household	14,000 <u>14,800</u>
Single	8,750 <u>9,250</u>
Married, filing separately	8,750 <u>9,250.</u> "

SECTION 38.2.(b) This section is effective for taxable years beginning on or after January 1, 2018.

INCREASE MORTGAGE EXPENSE AND PROPERTY TAX DEDUCTION CAP

SECTION 38.3.(a) G.S. 105-153.5(a)(2) 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 that the taxpayer claimed under the Code. 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:

1 ...
 2 b. Mortgage Expense and Property Tax. – The amount allowed as a
 3 deduction for interest paid or accrued during the taxable year under
 4 section 163(h) of the Code with respect to any qualified residence
 5 plus the amount allowed as a deduction for property taxes paid or
 6 accrued on real estate under section 164 of the Code for that taxable
 7 year. ~~For taxable years 2014, 2015, and 2016, the amount allowed as~~
 8 ~~a deduction for interest paid or accrued during the taxable year under~~
 9 ~~section 163(h) of the Code with respect to any qualified residence~~
 10 ~~shall not include the amount for mortgage insurance premiums~~
 11 ~~treated as qualified residence interest.~~ The amount allowed under this
 12 sub-subdivision may not exceed ~~twenty thousand dollars (\$20,000).~~
 13 twenty-two thousand dollars (\$22,000). For spouses filing as married
 14 filing separately or married filing jointly, the total mortgage interest
 15 and real estate taxes claimed by both spouses combined may not
 16 exceed ~~twenty thousand dollars (\$20,000).~~ twenty-two thousand
 17 dollars (\$22,000). For spouses filing as married filing separately with
 18 a joint obligation for mortgage interest and real estate taxes, the
 19 deduction for these items is allowable to the spouse who actually
 20 paid them. If the amount of the mortgage interest and real estate
 21 taxes paid by both spouses exceeds ~~twenty thousand dollars~~
 22 ~~(\$20,000),~~ twenty-two thousand dollars (\$22,000), these deductions
 23 must be prorated based on the percentage paid by each spouse. For
 24 joint obligations paid from joint accounts, the proration is based on
 25 the income reported by each spouse for that taxable year.

26"

27 **SECTION 38.3.(b)** This section is effective for taxable years beginning on or after
 28 January 1, 2019.

30 **REDUCE FRANCHISE TAX RATE**

31 **SECTION 38.6.(a)** G.S. 105-120.2(b) reads as rewritten:

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

34 (1) A franchise or privilege tax at the rate of one dollar and fifty-four cents
 35 ~~(\$1.50)~~(\$1.40) per one thousand dollars (\$1,000) of the amount determined
 36 under subsection (a) of this section, but in no case shall the tax be more than
 37 one hundred fifty thousand dollars (\$150,000) nor less than two hundred
 38 dollars (\$200.00).

39 (2) If the tax calculated under this subdivision exceeds the tax calculated under
 40 subdivision (1) of this subsection, then the tax is levied at the rate of one
 41 dollar and fifty-four cents ~~(\$1.50)~~(\$1.40) per one thousand dollars (\$1,000)
 42 on the greater of the following:

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

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

50 **SECTION 38.6.(b)** G.S. 105-122(d) reads as rewritten:

"(d) Tax Base and Tax Rate. – After determining the proportion of its net worth as set out in subsection (c1) of this section, which amount shall not be less than fifty-five percent (55%) of the appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State of each corporation nor less than its total actual investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Secretary of Revenue, at the time the return is due, a franchise or privilege tax at the rate of one dollar and ~~fifty-four~~ cents ~~(\$1.50)~~(\$1.40) per one thousand dollars (\$1,000) of the total amount of net worth as provided in this section. The tax imposed in this section shall not be less than two hundred dollars (\$200.00) and is for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of each corporation in this State. Appraised value of tangible property including real estate is the ad valorem valuation for the calendar year next preceding the due date of the franchise tax return. The term "total actual investment in tangible property" as used in this section means the total original purchase price or consideration to the reporting taxpayer of its tangible properties, including real estate, in this State plus additions and improvements thereto less reserve for depreciation as permitted for income tax purposes."

SECTION 38.6.(c) This section is effective for taxable years beginning on or after January 1, 2019, and is applicable to the calculation of franchise tax reported on the 2018 and later corporate income tax returns.

EXEMPT MILL MACHINERY FROM TAX AND STUDY

SECTION 38.8.(a) Article 5F of Chapter 105 of the General Statutes, G.S. 105-164.13(5a), and G.S. 105-163.13(57a) are repealed.

SECTION 38.8.(b) G.S. 105-164.4I(b) reads as rewritten:

(b) Exemptions. – The tax imposed by this section does not apply to the sales price of or the gross receipts derived from a service contract applicable to any of the following items:

- (1) An item exempt from tax under this Article. This exemption does not apply to water maintained under a service contract for a pool, fish tank, or similar aquatic feature.
- (2) A transmission, distribution, or other network asset contained on utility-owned land, right-of-way, or easement.
- (3) A transmission, an engine, rear-end gears, and any other item purchased, leased, or rented by a professional motorsports racing team or a related member of a team for which the team or related member may receive a sales tax exemption under G.S. 105-164.13(65) or G.S. 105-164.13(65a) or a sales tax refund under G.S. 105-164.14A(a)(5). This subdivision expires January 1, 2020.
- ~~(4) An item subject to tax under Article 5F of Chapter 105 of the General Statutes.~~
- (5) A qualified aircraft or a qualified jet engine.
- (6) A motor vehicle service contract.
- (7) Repair, maintenance, and installation services exempt under G.S. 105-164.13(61a)."

SECTION 38.8.(c) G.S. 105-164.13 is amended by adding the following new subdivisions to read:

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

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

...

- 1 (5e) Sales of mill machinery or mill machinery parts or accessories to any of the
2 following:
3 a. A manufacturing industry or plant. A manufacturing industry or plant
4 does not include (i) a delicatessen, cafe, cafeteria, restaurant, or
5 another similar retailer that is principally engaged in the retail sale of
6 foods prepared by it for consumption on or off its premises or (ii) a
7 production company.
8 b. A contractor or subcontractor if the purchase is for use in the
9 performance of a contract with a manufacturing industry or plant.
10 c. A subcontractor if the purchase is for use in the performance of a
11 contract with a general contractor that has a contract with a
12 manufacturing industry or plant.
13 (5f) Sales to a major recycling facility of any of the following tangible personal
14 property for use in connection with the facility:
15 a. Cranes, structural steel crane support systems, and foundations
16 related to the cranes and support systems.
17 b. Port and dock facilities.
18 c. Rail equipment.
19 d. Material handling equipment.
20 (5g) Sales of equipment, or an attachment or repair part for equipment, that meets
21 all of the following requirements:
22 a. Is sold to a company primarily engaged at the establishment in
23 research and development activities in the physical, engineering, and
24 life sciences included in industry group 54171 of NAICS.
25 b. Is capitalized by the company for tax purposes under the Code.
26 c. Is used by the company at the establishment in the research and
27 development of tangible personal property.
28 (5h) Sales of equipment, or an attachment or repair part for equipment, that meets
29 all of the following requirements:
30 a. Is sold to a company primarily engaged at the establishment in
31 software publishing activities included in industry group 5112 of
32 NAICS.
33 b. Is capitalized by the company for tax purposes under the Code.
34 c. Is used by the company at the establishment in the research and
35 development of tangible personal property.
36 (5i) Sales of equipment, or an attachment or repair part for equipment, that meets
37 all of the following requirements:
38 a. Is sold to a company primarily engaged at the establishment in
39 industrial machinery refurbishing activities included in industry
40 group 811310 of NAICS.
41 b. Is capitalized by the company for tax purposes under the Code.
42 c. Is used by the company at the establishment in repairing or
43 refurbishing tangible personal property.
44 (5j) Sales of the following to a company located at a ports facility for waterborne
45 commerce:
46 a. Machinery and equipment that is used at the facility to unload or to
47 facilitate the unloading or processing of bulk cargo to make it
48 suitable for delivery to and use by manufacturing facilities.
49 b. Parts, accessories, or attachments used to maintain, repair, replace,
50 upgrade, improve, or otherwise modify such machinery and
51 equipment.

1 (5k) Sales of the following to a secondary metals recycler:

- 2 a. Equipment, or an attachment or repair part for equipment, that (i) is
3 capitalized by the person for tax purposes under the Code, (ii) is used
4 by the person in the secondary metals recycling process, and (iii) is
5 not a motor vehicle or an attachment or repair part for a motor
6 vehicle.
7 b. Fuel, piped natural gas, or electricity for use at the person's facility at
8 which the primary activity is secondary metals recycling.

9 (5l) Sales of equipment, or an attachment or repair part for equipment, that meets
10 all of the following requirements:

- 11 a. Is sold to a company primarily engaged at the establishment in
12 processing tangible personal property for the purpose of extracting
13 precious metals, as defined in G.S. 66-406, to determine the value for
14 potential purchase.
15 b. Is capitalized by the company for tax purposes under the Code.
16 c. Is used by the company in the process described in this subdivision.

17 (5m) Sales of equipment, or an attachment or repair part for equipment, that meets
18 all of the following requirements:

- 19 a. Is sold to a company that is engaged in the fabrication of metal work
20 and that has annual gross receipts, including the gross receipts of all
21 related persons, as defined in G.S. 105-163.010, from the fabrication
22 of metal work of at least eight million dollars (\$8,000,000).
23 b. Is capitalized by the company for tax purposes under the Code.
24 c. Is used by the company at the establishment in the fabrication or
25 manufacture of metal products or used by the company to create
26 equipment for the fabrication or manufacture of metal products.

27 (5n) Sales of equipment, or an accessory, an attachment, or a repair part for
28 equipment, that meets all of the following requirements:

- 29 a. Is sold to a large manufacturing and distribution facility.
30 b. Is used in the manufacturing process, the assembly process, or the
31 distribution process.
32 c. Is not electricity.

33 If the level of investment or employment required by G.S. 105-164.3(16g)b.
34 is not timely made, achieved, or maintained, then the exemption provided
35 under this subdivision is forfeited. If the exemption is forfeited due to a
36 failure to timely make the required investment or to timely achieve the
37 minimum required employment level, then the exemption provided under
38 this subdivision is forfeited on all purchases. If the exemption is forfeited
39 due to a failure to maintain the minimum required employment level once
40 that level has been achieved, then the exemption provided under this
41 subdivision is forfeited for those purchases occurring on or after the date the
42 taxpayer fails to maintain the minimum required employment level. A
43 taxpayer that forfeits an exemption under this subdivision is liable for all
44 past sales and use taxes avoided as a result of the forfeiture, computed at the
45 applicable State and local rates from the date the taxes would otherwise have
46 been due, plus interest at the rate established under G.S. 105-241.21. Interest
47 is computed from the date the sales or use tax would otherwise have been
48 due. The past taxes and interest are due 30 days after the date of forfeiture. A
49 taxpayer that fails to pay the past taxes and interest by the due date is subject
50 to the provisions of G.S. 105-236. This subdivision expires for sales
51 occurring on or after July 1, 2018.

1 (5o) Sales of repair or replacement parts for a ready-mix concrete mill, regardless
2 of whether the mill is freestanding or affixed to a motor vehicle, to a
3 company that primarily sells ready-mix concrete.

4 "

5 **SECTION 38.8.(d)** G.S. 105-164.3 is amended by adding two new subdivisions to
6 read:

7 "(16g) Large manufacturing and distribution facility. – A facility that satisfies both
8 of the following conditions:

9 a. The facility is used primarily for manufacturing or assembling
10 products and distributing finished products.

11 b. The Secretary of Commerce has certified that an investment of
12 private funds of at least eighty million dollars (\$80,000,000) has been
13 or will be made in real and tangible personal property for the facility
14 within five years after the date on which the first property investment
15 is made and that the facility will achieve an employment level of at
16 least 550 within five years after the date the facility is placed into
17 service and maintain that minimum level of employment throughout
18 its operation.

19 ...

20 (37g) Secondary metals recycler. – A person that gathers and obtains ferrous
21 metals, nonferrous metals, and items that have served their original
22 economic purpose and that converts them by processes, including sorting,
23 cutting, classifying, cleaning, baling, wrapping, shredding, or shearing into a
24 new or different product for sale consisting of prepared grades."

25 **SECTION 38.8.(e)** Sales of mill machinery to manufacturers and certain industrial
26 processors have historically enjoyed preferential tax treatment, whether in the form of a
27 reduced wholesale tax, a preferential rate of sales and use tax, or a one-percent (1%) privilege
28 tax with an eighty-dollar (\$80.00) cap per article. Despite the nature of the tax, the operational
29 language has remained virtually unchanged for over 60 years and lacks clear guidance with
30 regard to its application. Specifically, Article 5F of Chapter 105 of the General Statutes, and its
31 predecessors, did not define "manufacturing industry or plant" or "mill machinery." This lack
32 of guidance has resulted in a substantial body of administrative interpretation being developed
33 over the years by the Department of Revenue. These interpretations are not included in the
34 statutes and may not necessarily comport with the traditional definition of manufacturing, but
35 they may be consistent with the General Assembly's intent to provide preferential tax treatment
36 to certain industrial equipment.

37 This act repeals the one-percent (1%) privilege tax on mill machinery and mill
38 machinery parts and accessories and substitutes a sales and use tax exemption for the items.
39 However, the General Assembly recognizes that, once this transition has occurred, efforts need
40 to be made to provide more guidance and specificity to taxpayers and the Department of
41 Revenue with respect to the treatment of manufacturing and industrial processing equipment.
42 Therefore, the Revenue Laws Study Committee is directed to study ways in which to clarify the
43 scope of the sales and use tax exemption for mill machinery, as enacted by this act, by
44 modernizing and further defining the statutory language and by incorporating existing
45 administrative interpretations of the Department of Revenue, to the extent the General
46 Assembly desires to maintain those interpretations.

47 The Committee may report its findings, together with any recommended legislation,
48 to the 2018 Regular Session of the 2017 General Assembly upon its convening. The study may
49 include an examination of the following:

50 (1) The criteria that had to be met under prior law to qualify for the preferential
51 rate under Article 5F of Chapter 105 of the General Statutes and whether

1 that criteria should be incorporated into or otherwise clarified in the
2 corresponding sales and use tax exemption, as enacted by this act, including
3 the following:

- 4 a. What constitutes an eligible manufacturer or industrial processor.
5 b. The extent to which a business's activities must consist of
6 manufacturing or processing items for sale in order for the sales and
7 use tax exemption, as enacted by this act, to apply.
8 c. The types of activities that qualify as manufacturing or industrial
9 processing.
10 d. The types of machinery, parts, accessories, and other supplies that
11 are eligible for the exemption and the degree to which they must be
12 used in that process to qualify.

13 (2) A review of the Department's administrative interpretations of the mill
14 machinery statute, in all its forms, and whether and how to incorporate those
15 interpretations into the statutes.

16 (3) Terminology used by surrounding states in their statutory provisions that
17 provide a sales and use tax exemption for manufacturing equipment.

18 (4) Any other issues the Committee deems relevant.

19 **SECTION 38.8.(f)** Subsections (a), (b), and (c) of this section become effective
20 July 1, 2017, and apply to sales made on or after that date. The remainder of this section is
21 effective when it becomes law.
22

23 SALES TAX EXEMPTION FOR FULFILLMENT CENTERS

24 **SECTION 38.9.(a)** G.S. 105-164.3 is amended by adding a new subdivision to
25 read:

26 "(16f) Large fulfillment center. – A facility that satisfies both of the following
27 conditions:

- 28 a. The facility is used primarily for receiving, inventorying, sorting,
29 repackaging, and distributing finished retail products for the purpose
30 of fulfilling customer orders.
31 b. The Secretary of Commerce has certified that an investment of
32 private funds of at least one hundred million dollars (\$100,000,000)
33 has been or will be made in real and tangible personal property for
34 the facility within five years after the date on which the first property
35 investment is made and that the facility will achieve an employment
36 level of at least 400 within five years after the date the facility is
37 placed into service and maintain that minimum level of employment
38 throughout its operation."

39 **SECTION 38.9.(b)** G.S. 105-164.13(5n), as enacted by Section 38.8(c) of this act,
40 reads as rewritten:

41 "(5n) Sales of equipment, or an accessory, an attachment, or a repair part for
42 equipment, that meets all of the following requirements:

- 43 a. Is sold to a large manufacturing and distribution ~~facility~~facility or to
44 a large fulfillment center.
45 b. Is used in the manufacturing process, the assembly process, or the
46 distribution process.
47 c. Is not electricity.

48 If the level of investment or employment required by G.S. 105-164.3(16f)b.
49 or G.S. 105-164.3(16g)b. is not timely made, achieved, or maintained, then
50 the exemption provided under this subdivision is forfeited. If the exemption
51 is forfeited due to a failure to timely make the required investment or to

1 timely achieve the minimum required employment level, then the exemption
2 provided under this subdivision is forfeited on all purchases. If the
3 exemption is forfeited due to a failure to maintain the minimum required
4 employment level once that level has been achieved, then the exemption
5 provided under this subdivision is forfeited for those purchases occurring on
6 or after the date the taxpayer fails to maintain the minimum required
7 employment level. A taxpayer that forfeits an exemption under this
8 subdivision is liable for all past sales and use taxes avoided as a result of the
9 forfeiture, computed at the applicable State and local rates from the date the
10 taxes would otherwise have been due, plus interest at the rate established
11 under G.S. 105-241.21. Interest is computed from the date the sales or use
12 tax would otherwise have been due. The past taxes and interest are due 30
13 days after the date of forfeiture. A taxpayer that fails to pay the past taxes
14 and interest by the due date is subject to the provisions of G.S. 105-236. This
15 subdivision expires for sales to a large manufacturing and distribution
16 facility occurring on or after July 1, 2018."

17 **SECTION 38.9(c)** This section becomes effective July 1, 2017, and applies to
18 sales made on or after that date.

20 SALES TAX REFUND FOR RESEARCH AND DEVELOPMENT SUPPLIES

21 **SECTION 38.10(a)** Article 5 of Chapter 105 of the General Statutes is amended
22 by adding a new section to read:

23 **"§ 105-164.14C. Research and development sales tax refund.**

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

25 (1) Business. – A corporation or limited liability company.

26 (2) Development tier area. – Defined in G.S. 143B-437.08.

27 (3) In-house research expenses. – Defined in section 41(b)(2) of the Code.

28 (4) Related person. – A person described in one of the relationships set forth in
29 section 276(b) or 707(b) of the Code.

30 (5) Research and development supplies. – Tangible personal property, the
31 purchase of which qualifies as an in-house research expense.

32 (6) Rural research and development business. – A small research and
33 development business that incurs more than fifty percent (50%) of its
34 in-house research expenses in a development tier one or development tier
35 two area in the calendar year for which a refund is claimed. For purposes of
36 this subdivision, expenses are incurred at a location if (i) in the case of
37 research and development supplies, the supplies are used or consumed at the
38 location and (ii) in the case of wages paid to an employee, at least fifty
39 percent (50%) of the employee's duties are performed at the location.

40 (7) Small research and development business. – A business that meets all of the
41 following criteria for the calendar year for which a refund is claimed:

42 a. It employs 200 or fewer full-time employees or full-time equivalents.

43 b. It has annual receipts, combined with the annual receipts of all
44 related persons, not in excess of five million dollars (\$5,000,000).
45 Annual receipts do not include grants awarded by the State or federal
46 government.

47 c. It is either (i) engaged primarily in research and development or (ii)
48 certified by a university located in this State as performing under a
49 licensing agreement for the purpose of commercializing technology
50 developed at the university.

1 d. It spent on in-house research expenses the greater of ten thousand
2 dollars (\$10,000) or three percent (3%) of its annual receipts.

3 (b) Refunds. – A small research and development business is eligible for a refund equal
4 to the State and local sales or use taxes paid by it in the previous calendar year for research and
5 development supplies used or consumed solely in this State. A rural research and development
6 business is eligible for a refund equal to the greater of (i) the State and local sales or use taxes
7 paid by the business in the previous calendar year for research and development supplies used
8 or consumed solely in this State or (ii) fifty percent (50%) of the sales or use taxes paid by the
9 business under this Article in the previous calendar year pursuant to G.S. 105-164.4.

10 (c) Application. – A request for a refund must be in writing and must include any
11 information and documentation required by the Secretary. Applications for refunds shall be
12 submitted on a schedule determined by the Secretary.

13 (d) Limitations. – The aggregate annual refund amount allowed an eligible business
14 under this section for a calendar year may not exceed twenty thousand dollars (\$20,000). The
15 maximum total amount of all refunds allowed to all eligible businesses under this section for a
16 calendar year may not exceed fifteen million dollars (\$15,000,000). The Secretary of Revenue
17 shall calculate the total amount of refunds claimed from the applications filed pursuant to
18 subsection (c) of this section. If the total amount of refunds claimed for sales and use taxes paid
19 in a calendar year exceeds the maximum total amount, the Secretary shall allow a portion of the
20 refunds claimed by allocating the maximum total amount in proportion to the amount of the
21 refund claimed by each eligible business. If a refund claimed under this section is reduced as
22 provided in this subsection, the Secretary shall notify the business of the amount of the
23 reduction of the refund at the time the refund is paid. The Secretary shall pay refunds due under
24 this section no later than October 1 of the year following the calendar year in which the taxes
25 were paid."

26 **SECTION 38.10.(b)** This section becomes effective July 1, 2018, and applies to
27 sales made on or after that date.

29 **PROHIBIT WATER AND WASTEWATER IMPACT FEES/LOW-INCOME HOUSING**

30 **SECTION 38.11.(a)** Article 6 of Chapter 153A of the General Statutes is amended
31 by adding a new section to read:

32 **"§ 153A-145.7. Certain water and wastewater fees on low-income housing prohibited.**

33 No county may impose a fee associated with the future expansion of a water or wastewater
34 system, or both, on a low-income housing development to which the North Carolina Housing
35 Finance Agency allocates a federal tax credit under section 42 of the Code, as defined in
36 G.S. 105-228.90."

37 **SECTION 38.11.(b)** Article 8 of Chapter 160A of the General Statutes is amended
38 by adding a new section to read:

39 **"§ 160A-205.3. Certain water and wastewater fees on low-income housing prohibited.**

40 No city may impose a fee associated with the future expansion of a water or wastewater
41 system, or both, on a low-income housing development to which the North Carolina Housing
42 Finance Agency allocates a federal tax credit under section 42 of the Code, as defined in
43 G.S. 105-228.90."

44 **SECTION 38.11.(c)** Chapter 162A of the General Statutes is amended by adding a
45 new Article to read:

46 "Article 8.

47 "Limitations.

48 **"§ 162A-151. Fee limitation for low-income housing developments.**

49 Notwithstanding any provision or authority to the contrary, no authority or district created
50 under this Chapter may impose a fee associated with the future expansion of a water or sewer
51 system, or both, on a low-income housing development for which the North Carolina Housing

1 Finance Agency allocates a federal tax credit under section 42 of the Code, as defined in
2 G.S. 105-228.90."

3 **SECTION 38.11.(d)** Notwithstanding any provision or authority to the contrary in
4 any of the local acts listed in this section, no local government named therein may impose a fee
5 associated with the future expansion of a water or sewer system, or both, on a low-income
6 housing development. For purposes of this section, the term "low-income housing
7 development" means a development for which the North Carolina Housing Finance Agency
8 allocates a federal tax credit under section 42 of the Code, as defined in G.S. 105-228.90. The
9 local acts are as follows:

- 10 (1) Chapter 477 of the Session Laws of 1989 (Benson).
- 11 (2) Part 1 of Article 6 of the Charter of the Town of Carrboro, being Chapter
12 476 of the Session Laws of 1987, as amended.
- 13 (3) Sections 7.4 and 8.5 of the Charter of the Town of Cary, being S.L.
14 2005-117, as amended.
- 15 (4) Chapter 1021 of the Session Laws of 1987 (Catawba County).
- 16 (5) Article 7 of the Charter of the Town of Chapel Hill, being Chapter 473 of the
17 Session Laws of 1975, as amended by Chapter 936 of the 1985 Session
18 Laws.
- 19 (6) Titles III and VI of Chapter 460 of the Session Laws of 1987, as amended by
20 Chapter 324 of the Session Laws of 1991 and Part 4 of Chapter 642 of the
21 Session Laws of 1993 (Chatham and Orange Counties).
- 22 (7) Chapter 660 of the Session Laws of 1991 (Dunn).
- 23 (8) Sections 5.8 and 5.9 of the Charter of the Town of Garner, being Chapter
24 333 of the Session Laws of 1977, as amended by Chapter 608 of the Session
25 Laws of 1989, Section 2 of Chapter 608 of the Session Laws of 1989, and
26 Chapter 601 of the Session Laws of 1993.
- 27 (9) Chapter 705 of the Session Laws of 1987 (Hickory).
- 28 (10) Chapter 536 of the Session Laws of 1985, as amended by Chapter 258 of the
29 Session Laws of 1987, Chapter 986 of the Session Laws of 1987, Chapter
30 987 of the Session Laws of 1987, and Chapter 988 of the Session Laws of
31 1987 (Kill Devil Hills, Kitty Hawk, Manteo, Nags Head, and Southern
32 Shores).
- 33 (11) Chapter 668 of the Session Laws of 1987 (Knightdale).
- 34 (12) Chapter 155 of the Private Laws of 1927, as amended by Chapter 430 of the
35 Session Laws of 1989 and Chapter 770 of the Session Laws of 1989
36 (Knightdale).
- 37 (13) Article XIV of the Charter of the Town of Pittsboro, being Chapter 348 of
38 the Session Laws of 1973, as amended by Chapter 460 of the 1987 Session
39 Laws.
- 40 (14) Chapter 1184 of the Session Laws of 1949, as amended by Chapter 498 of
41 the Session Laws of 1985 and Chapter 514 of the Session Laws of 1987
42 (Raleigh).
- 43 (15) Chapter 996 of the Session Laws of 1987 (Rolesville).
- 44 (16) Chapter 607 of the Session Laws of 1989 (Southern Pines).
- 45 (17) Chapter 502 of the Session Laws of 1989 (Wake Forest).
- 46 (18) Chapter 68 of the Session Laws of 1987 (Wendell).
- 47 (19) Chapter 668 of the Session Laws of 1987 and Sections 8.30, 8.31, 8.32, and
48 8.33 of the Charter of the Town of Zebulon, being Chapter 386 of the
49 Session Laws of 1973, as amended by Chapter 606 of the Session Laws of
50 1989 (Zebulon).

51 **SECTION 38.11.(e)** This section is effective when it becomes law.

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MODIFY DISABLED VETERAN PROPERTY TAX CHANGES

SECTION 38.12. If House Bill 2 of the 2017 Regular Session becomes law, then Section 3 of that act reads as rewritten:

"**SECTION 3.** This act is effective for taxes imposed for taxable years beginning on or after July 1, ~~2017-2018.~~"

EFFECTIVE DATE

SECTION 39.7. Except as otherwise provided, this act becomes effective July 1, 2017.