GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2021

H **5**

HOUSE BILL 334
Committee Substitute Favorable 3/30/21
Third Edition Engrossed 4/22/21
Senate Finance Committee Substitute Adopted 5/26/21
Senate Appropriations/Base Budget Committee Substitute Adopted 5/27/21

Short Title: JOBS Grants and Tax Relief. (Public)

Sponsors:

Referred to:

March 22, 2021

A BILL TO BE ENTITLED

AN ACT TO PROVIDE GRANTS TO NORTH CAROLINA BUSINESSES AFFECTED BY THE COVID-19 PANDEMIC, TO PROVIDE TAX RELIEF TO BUSINESSES AND INDIVIDUALS, TO UPDATE THE REFERENCE TO THE INTERNAL REVENUE CODE, AND TO MAKE VARIOUS OTHER CHANGES.

The General Assembly of North Carolina enacts:

PART I. JOBS GRANT PROGRAM

SECTION 1.1.(a) Purpose; Use. – The purpose of this section is to use funds from the American Rescue Plan Act to aid businesses in North Carolina that suffered substantial economic damage from the COVID-19 pandemic for which they were otherwise not fully compensated by providing economic support.

SECTION 1.1.(b) JOBS Grant Program. – There is created the Job Opportunity and Business Saving Grant Program (the Program) to be administered by the Department of Commerce. The Department may provide a one-time grant for each award amount to a qualifying business. Each grant awarded under the Program must include a description of the award amount used to calculate the grant. The Department's grant determinations are final.

SECTION 1.1.(c) Maximum Grant Amount. – The maximum grant a qualifying business may receive per award amount is seven and one-half percent (7.5%) of either the award amount or two hundred fifty thousand dollars ($250,000), whichever is less.

SECTION 1.1.(d) Grant Program Limits. – The total of all funds granted under the Program, including the administration allocation for the Department of Commerce under Section 1.2 of this act, may not exceed one billion dollars ($1,000,000,000).

SECTION 1.1.(e) Automatic Award. – The Department of Commerce shall use currently available data from the Department, the Small Business Administration, and any other available sources to identify qualifying businesses in this State that have been approved for an award amount on or before June 30, 2021. The Department must award a grant under this subsection to the last known address of an identified qualifying business for each ascertainable award amount by September 30, 2021.

SECTION 1.1.(f) Initial Application; Award. – A qualifying business that was approved for an award amount on or before June 30, 2021, but does not receive a grant under subsection (e) of this section by September 30, 2021, for that award amount may apply to the Department of Commerce for a grant on a form prescribed by the Department. The applicant must include any supporting documentation required by the Department, and the Department must confirm that the applicant did not previously receive a grant under the Program for the applicable award amount. Grants will be paid on a rolling basis to qualifying businesses that submit their applications on or before November 19, 2021.

SECTION 1.1.(g) Secondary Application; Award. – If the limit under subsection (d) of this section has not been met by December 31, 2021, the Department of Commerce must reopen the Program for additional applications. A qualifying business that was approved for an award amount but did not receive a grant for that award amount under subsection (e) or (f) of this section may file an application with the Department to receive a grant under this subsection. The applicant must include any supporting documentation required by the Department, and the Department must confirm that the applicant did not previously receive a grant under the Program for the applicable award amount. The application must be filed with the Department on or before February 18, 2022. The Department may not accept late applications. The Department may not award grants under this subsection until the application deadline has passed. If the total amount to be awarded for applications submitted pursuant to this subsection, when added to the amounts awarded under subsections (e) and (f) of this section, exceeds the maximum amount of funds available under subsection (d) of this section, the Department must reduce each grant awarded under this subsection on a proportionate basis so the maximum amount is not exceeded. The Department must award grants under this subsection as soon as practicable after the application deadline has passed.

SECTION 1.1.(h) Clawback. – For grants awarded under the Program pursuant to an application, the Department shall require a business to apply, under oath, on a form prescribed by the Department that includes (i) a certification that the business was approved for the applicable award amount, (ii) a certification that the business will promptly inform the Department of any reduction or recapture of the award amount and return any grant amount calculated on the reduced or recaptured award amount, and (iii) any information necessary for the Department to evaluate the application. The Department shall include with every grant awarded under the Program a notice that (i) the award must be returned or forfeited by a business to the extent the calculation of the award is premised on an award amount the qualifying business did not receive or did receive that was subsequently recaptured and (ii) a business is responsible for returning or forfeiting any amount improperly received.

SECTION 1.1.(i) Definitions. – The following definitions apply in this section:

(1) Award amount. – Amount awarded from any of the following:

a. COVID-19 Job Retention Program. – Defined in Section 4.2B of S.L. 2020-4, as enacted by Section 1.1(e) of S.L. 2020-80, as amended.

b. EIDL Advance. – An Economic Injury Disaster Loan Advance defined in any of the following:

1. 15 U.S.C. § 9009(e).
2. Section 331 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, Title III of Division N of Public Law 116–260.
3. Section 5002 of the American Rescue Plan Act of 2021, P.L. 117-2.

c. Paycheck Protection Program. – Defined in 15 U.S.C. § 636(a)(36).

d. Restaurant Revitalization Fund. – Defined in section 5003 of the American Rescue Plan Act of 2021, P.L. 117-2.

e. Shuttered Venue Operators Grant Program. – Defined in section 324 of the Economic Aid to Hard-Hit Small Businesses, Nonprofits, and Venues Act, Title III of Division N of Public Law 116–260.

(2) Qualifying business. – A business that (i) listed a North Carolina address as its business address on the application for an award amount and (ii) was approved for that award amount.

SECTION 1.1.(j) Outreach. – The Office of Historically Underutilized Businesses, Department of Administration, is directed to inform and educate minority-owned businesses that may be eligible to apply for the grants provided by the Program as soon as practicable so they may have the opportunity to access the grants provided by it.

SECTION 1.2. Appropriation of Funds for JOBS Grant Program. – The State Controller shall transfer the sum of one billion dollars ($1,000,000,000) for the 2021-2022 fiscal year from the State Fiscal Recovery Reserve established in Section 2.1 of S.L. 2021-25 to the State Fiscal Recovery Fund established in Section 2.2 of S.L. 2021-25. There is appropriated from the State Fiscal Recovery Fund to the Office of State Budget and Management the sum of one billion dollars ($1,000,000,000) in nonrecurring funds for the 2021-2022 fiscal year to be allocated to the Department of Commerce to be used as provided in Section 1.1 of this act. The Department of Commerce may use up to one million dollars ($1,000,000) of the funds appropriated in this section for the administration of the Program under Section 1.1 of this act. The Department shall remit any funds remaining after disposition of all timely filed applications under subsection (g) of Section 1.1 of this act to the Office of State Budget and Management which shall deposit the funds into the State Fiscal Recovery Reserve. Amounts deposited into the Reserve under this section are receipts that do not constitute an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

SECTION 1.3.(a) G.S. 105-130.5(b) reads as rewritten:

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

…

<u>(31a)</u> <u>To the extent included in federal taxable income, the amount received by a taxpayer under the Job Opportunity and Business Saving Grant Program.</u>"

SECTION 1.3.(b) G.S. 105-153.5(b) reads as rewritten:

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

…

<u>(14a)</u> <u>The amount received by a taxpayer under the Job Opportunity and Business Saving Grant Program.</u>"

SECTION 1.3.(c) This section is effective for taxable years beginning on or after January 1, 2021, and applies to amounts received by a taxpayer on or after that date.

PART II. TAX POLICY INITIATIVES

SUBPART II-A. PERSONAL INCOME TAX REDUCTION

SECTION 2A.1. G.S. 105-153.7(a) reads as rewritten:

"(a) Tax. – A tax is imposed for each taxable year on the North Carolina taxable income of every individual. The tax shall be levied, collected, and paid annually. The tax is ~~five and one-quarter percent (5.25%)~~ <u>four and ninety-nine hundredths percent (4.99%)</u> of the taxpayer's North Carolina taxable income."

SECTION 2A.2. G.S. 105-153.5(a)(1) reads as rewritten:

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

Filing Status	**Standard Deduction**

Married, filing jointly/surviving spouse	~~$21,500~~$25,500
Head of Household	~~16,125~~19,125
Single	~~10,750~~12,750
Married, filing separately	~~10,750.~~12,750."

SECTION 2A.3. G.S. 105-153.5(a1) reads as rewritten:

"(a1) Child Deduction Amount. – A taxpayer who is allowed a federal child tax credit under section 24 of the Code for the taxable year is allowed a deduction under this subsection for each qualifying child for whom the taxpayer is allowed the federal tax credit. The amount of the deduction is equal to the amount listed in the table below based on the taxpayer's adjusted gross income, as calculated under the Code:

Filing Status	**AGI**	**Deduction Amount**
Married, filing jointly/	Up to $40,000	~~$2,500.00~~$3,000
surviving spouse	Over $40,000	
	Up to $60,000	~~2,000.00~~2,500
	Over $60,000	
	Up to $80,000	~~1,500.00~~2,000
	Over $80,000	
	Up to $100,000	~~1,000.00~~1,500
	Over $100,000	
	Up to $120,000	~~500.00~~1,000
	Over $120,000	~~0~~
	Up to $140,000	500.00
	Over $140,000	0
Head of Household	Up to $30,000	~~$2,500.00~~$3,000
	Over $30,000	
	Up to $45,000	~~2,000.00~~2,500
	Over $45,000	
	Up to $60,000	~~1,500.00~~2,000
	Over $60,000	
	Up to $75,000	~~1,000.00~~1,500
	Over $75,000	
	Up to $90,000	~~500.00~~1,000
	Over $90,000	~~0~~
	Up to $105,000	500.00
	Over $105,000	0
Single	Up to $20,000	~~$2,500.00~~$3,000
	Over $20,000	
	Up to $30,000	~~2,000.00~~2,500
	Over $30,000	
	Up to $40,000	~~1,500.00~~2,000
	Over $40,000	
	Up to $50,000	~~1,000.00~~1,500
	Over $50,000	
	Up to $60,000	~~500.00~~1,000
	Over $60,000	~~0~~
	Up to $70,000	500.00
	Over $70,000	0
Married, filing separately	Up to $20,000	~~$2,500.00~~$3,000

Over $20,000 Up to $30,000	~~2,000.00~~2,500
Over $30,000 Up to $40,000	~~1,500.00~~2,000
Over $40,000 Up to $50,000	~~1,000.00~~1,500
Over $50,000 Up to $60,000	~~500.00~~1,000
Over $60,000	~~0.~~
Up to $70,000	500.00
Over $70,000	0."

SECTION 2A.4. This Subpart is effective for taxable years beginning on or after January 1, 2022.

SUBPART II-B. PHASE OUT CORPORATE INCOME TAX

SECTION 2B.1.(a) G.S. 105-130.3 reads as rewritten:

"**§ 105-130.3. Corporations.**

A tax is imposed on the State net income of every C Corporation doing business in this ~~State at the rate of two and one-half percent (2.5%).~~ State. An S Corporation is not subject to the tax levied in this section. The tax is a percentage of the taxpayer's State net income computed as follows:

Taxable Years Beginning	Tax
In 2024	2%
In 2025	1.5%
In 2026	1%
In 2027	0.5%
After 2027	0%."

SECTION 2B.1.(b) This Subpart is effective for taxable years beginning on or after January 1, 2024.

SUBPART II-C. FRANCHISE TAX REDUCTION AND SIMPLIFICATION

SECTION 2C.1.(a) G.S. 105-122(d) reads as rewritten:

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

~~(1)~~ ~~The~~ proportion of its net worth as set out in subsection (c1) of this section.

~~(2) Fifty-five percent (55%) of the corporation's appraised value as determined for ad valorem taxation of all the real and tangible personal property in this State. For purposes of this subdivision, the 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.~~

~~(3) (Effective for taxable years beginning on or after January 1, 2020, and applicable to the calculation of franchise tax reported on the 2019 and later corporate income tax returns) The corporation's total actual investment in tangible property in this State. For purposes of this subdivision, the total actual investment in tangible property in this State is 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 (i) reserve for depreciation as permitted for income tax purposes and (ii) any indebtedness specifically incurred and existing solely for and as the result of the purchase of any real estate and any permanent improvements made on the real estate.~~"

SECTION 2C.1.(b) G.S. 105-114.1(b) reads as rewritten:

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

SECTION 2C.1.(c) G.S. 105-120.2(b) reads as rewritten:

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

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

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

~~a.~~ ~~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 such corporation plus the total appraised value of intangible property returned for taxation of intangible personal property as computed under G.S. 105-122(d).~~

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

SECTION 2C.1.(d) This Subpart is effective for taxable years beginning on or after January 1, 2023, and applicable to the calculation of franchise tax reported on the 2022 and later corporate income tax return.

SUBPART II-D. EXTEND THE TIME TO COMPLETE AN ELIGIBLE PROJECT UNDER THE MILL REHABILITATION TAX CREDIT PROGRAMS

SECTION 2D.1.(a) G.S. 105-129.71(a1) reads as rewritten:

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

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

…

(4) It is a designated local landmark as certified by a city on or before ~~June 30, 2019.~~September 1, 2020.

…

(7) It is issued a certificate of occupancy on or before December 31, ~~2021.~~2023."

SECTION 2D.1.(b) G.S. 105-129.75 reads as rewritten:

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

(a) Sunset. – Except for credits allowed under G.S. 105-129.71(a1), this Article expires January 1, 2015, for rehabilitation projects for which an application for an eligibility certification is submitted on or after that date. Eligibility certifications under this Article expire January 1, ~~2023.~~2025.

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

(1) The qualified rehabilitation expenditures must be incurred on or after January 1, 2019, and before January 1, ~~2022.~~2024.

(2) This Article expires, and a tax credit allowed under G.S. 105-127.71(a1) may not be claimed, for rehabilitation projects not completed and placed in service prior to ~~January 1, 2022.~~July 1, 2024."

SUBPART II-E. LIMIT GROSS PREMIUMS TAX ON SURETY BONDS

SECTION 2E.1.(a) G.S. 105-228.5(b1) reads as rewritten:

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

(1) The premiums are properly reported and properly allocated as being received from business done in some other nation, territory, state, or states.

(2) The premiums are from policies written in federal areas for persons in military service who pay premiums by assignment of service pay.

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

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

Gross premiums from business done in this State for all other health care plans and contracts of insurance, including contracts of insurance required to be carried by the Workers' Compensation Act, means all premiums written during the calendar year, or the equivalent thereof in the case of self-insurers under the Workers' Compensation Act, for contracts covering property or risks in this State, other than for contracts of reinsurance, whether the premiums are designated as premiums, deposits, premium deposits, policy fees, membership fees, or assessments. Gross premiums shall be deemed to have been written for the amounts as provided in the policy contracts, new and renewal, becoming effective during the year irrespective of the time or method of making payment or settlement for the premiums, and with no deduction for dividends whether returned in cash or allowed in payment or reduction of premiums or for additional insurance, and without any other deduction except for return of premiums, deposits, fees, or assessments for adjustment of policy rates or for cancellation or surrender of policies."

SECTION 2E.1.(b) This Subpart is effective for taxable years beginning on or after January 1, 2022.

SUBPART II-F. MODIFY EXCISE TAX ON CIGARS AND CLARIFY DELIVERY SALES AND REMOTE SALES OF TOBACCO PRODUCTS

SECTION 2F.1.(a) G.S. 105-113.4 reads as rewritten:

"**§ 105-113.4. Definitions.**

The following definitions apply in this Article:

…

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

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

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

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

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

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

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

…

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

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

b. A manufacturer of cigarettes.

c. A delivery seller of cigarettes.

…

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

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

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

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

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

…

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

…."

SECTION 2F.1.(b) G.S. 105-113.4F reads as rewritten:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 2F.1.(c) G.S. 105-113.5 reads as rewritten:

"**§ 105-113.5. Tax on cigarettes.**

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

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

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

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

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

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

SECTION 2F.1.(d) G.S. 105-113.12 reads as rewritten:

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

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

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

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

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

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

SECTION 2F.1.(e) G.S. 105-113.18 reads as rewritten:

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

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

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

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

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

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

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

…."

SECTION 2F.1.(f) Part 3 of Article 2A of Chapter 105 of the General Statutes is repealed.

SECTION 2F.1.(g) Article 2A of Chapter 105 of the General Statutes is amended by adding a new Part to read as follows:

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

"**§ 105-113.50. Applicability.**

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

"Subpart 1. Tax Rates and Liability.

"**§ 105-113.51. Tax rates; liability for tax.**

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

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

(2) On cigars, the rate of twelve and eight-tenths percent (12.8%) of the cost price, subject to a cap of thirty cents (30¢) per cigar.

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

(b) Primary Liability for Tax. – A wholesale dealer that has not been relieved of paying tax under G.S. 105-113.60 or a retail dealer is primarily liable for the tax imposed by this section if the dealer meets any of the following conditions:

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

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

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

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

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

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

(1) A tobacco product sold outside the State.

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

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

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

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

"Subpart 2. Wholesale and Retail Dealers.

"**§ 105-113.60. Manufacturer's option.**

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

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

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

"**§ 105-113.61. Non-tax-paid products.**

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

"**§ 105-113.62. Discount; refund.**

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

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

"Subpart 3. Remote Sellers.

"**§ 105-113.70. Remote seller requirements.**

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

(1) Obtain a license from the Secretary as required by this Part before accepting an order.

(2) Report, collect, and remit to the Secretary all applicable taxes as set out in this Part and Article 5 of this Chapter. A remote seller that meets the definition of a "retailer" as defined in Article 5 of this Chapter is subject to all State laws that apply to a retailer in this State.

"**§ 105-113.71. Records.**

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

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

"**§ 105-113.72. Penalties.**

A remote seller who violates G.S. 105-113.70 is subject to the following penalties:

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

"Subpart 4. Administrative Provisions.

"**§ 105-113.80. License required.**

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

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

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

(1)	Wholesale dealer	$25.00
(2)	Retail dealer	$10.00.

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

"**§ 105-113.81. Payment of tax.**

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

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

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

"**§ 105-113.82. Bond or irrevocable letter of credit.**

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

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

"**§ 105-113.83. Use of tax proceeds.**

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

(1) Six percent (6%) to the University Cancer Research Fund established under G.S. 116-29.1.

(2) The remainder to the General Fund."

SECTION 2F.1.(h) G.S. 116-29.1(b) reads as rewritten:

"(b) Effective July 1 of each calendar year, the funds remitted to the University Cancer Research Fund by the Secretary of Revenue from the tax on tobacco products other than cigarettes pursuant to ~~G.S. 105-113.40A~~ G.S. 105-113.83 are appropriated for this purpose."

SECTION 2F.1.(i) This Subpart becomes effective July 1, 2022, and applies to sales or purchases occurring on or after that date. This Subpart does not affect the rights or liabilities of a taxpayer, or another person arising under the law as it existed before the effective date of this Subpart, nor does it affect the right to any refund or credit of a tax that accrued under the law as it existed before the effective date of this Subpart.

SUBPART II-G. PROVIDE TAX PARITY FOR SHORT-TERM VEHICLE RENTALS

SECTION 2G.1.(a) G.S. 105-164.4 reads as rewritten:

"**§ 105-164.4. Tax imposed on retailers and certain facilitators.**

(a) A privilege tax is imposed on a retailer engaged in business in the State at the percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The general rate of tax is four and three-quarters percent (4.75%). The percentage rates are as follows:

…

(17) The general rate applies to the gross receipts derived from a short-term motor vehicle rental by a peer-to-peer vehicle sharing facilitator, notwithstanding G.S. 105-164.13(32).

…."

SECTION 2G.1.(b) G.S. 105-164.13(32) reads as rewritten:

"(32) ~~Sales~~ Except as otherwise provided in G.S. 105-164.4(a)(17), sales of motor vehicles, the sale of a motor vehicle body to be mounted on a motor vehicle chassis when a certificate of title has not been issued for the chassis, and the sale of a motor vehicle body mounted on a motor vehicle chassis that temporarily enters the State so the manufacturer of the body can mount the body on the chassis. For purposes of this subdivision, a park model RV, as defined in G.S. 105-187.1, is a motor vehicle."

SECTION 2G.1.(c) G.S. 105-164.3 reads as rewritten:

"**§ 105-164.3. Definitions.**

The following definitions apply in this Article:

…

(166) Peer-to-peer vehicle sharing facilitator. – A marketplace facilitator who facilitates a short-term motor vehicle rental where the marketplace seller is the registered owner of the motor vehicle who has not made an election under G.S. 105-187.5.

…

(248) Short-term motor vehicle rental. – A motor vehicle rental to the same person for a period of less than 365 continuous days.

…."

SECTION 2G.1.(d) G.S. 105-187.1(a)(8) reads as rewritten:

"(8) Vehicle sharing service. – A service for which a person pays a membership fee for the right to use a motor vehicle or motor vehicles upon payment of an additional time-based or mileage-based fee. The term does not include a short-term motor vehicle rental by a peer-to-peer vehicle sharing facilitator."

SECTION 2G.1.(e) Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read as follows:

"**§ 105-164.44N. Transfer to Highway Fund of tax on peer-to-peer vehicle rentals.**

Beginning with the 2021-2022 fiscal year, and within 75 days after the end of each fiscal year, five hundred thousand dollars ($500,000) must be transferred from the General Fund to the Highway Fund in recognition of the fact that peer-to-peer vehicle rentals exercise the privilege of using the highways of this State."

SECTION 2G.1.(f) G.S. 105-187.9(a) reads as rewritten:

"(a) Distribution. – ~~Of the taxes~~ Taxes collected under this Article at the rate of five percent (5%) and eight percent ~~(8%), the sum of ten million dollars ($10,000,000)~~ (8%) shall be credited ~~annually~~ to the Highway ~~Fund, and the remainder shall be credited to the General~~ Fund. Taxes collected under this Article at the rate of three percent (3%) shall be credited to the North Carolina Highway Trust Fund."

SECTION 2G.1.(g) Subsection (f) of this section becomes effective July 1, 2021. The remainder of this Subpart becomes effective October 1, 2021, and applies to sales occurring on or after that date.

SUBPART II-H. PROPERTY TAX EXEMPTIONS

SECTION 2H.1.(a) G.S. 105-278.2 reads as rewritten:

"**§ 105-278.2. Burial property.**

(a) Commercial Property. – Real property set apart for burial purposes ~~shall be exempted from taxation unless it is~~ owned and held for purposes of (i) sale or rental or (ii) sale of burial rights ~~therein. No application is required under G.S. 105-282.1 for property exempt under this subsection. A county cannot deny the exemption provided under this subsection to a taxpayer that lacks a survey or plat detailing the exempt property.~~ therein is exempted from taxation. The taxes that would otherwise be due on real property classified under this subsection shall be a lien on the real property of the taxpayer as provided in G.S. 105-355(a). The taxes shall be carried forward in the records of the taxing unit or units as deferred taxes. The deferred taxes for the preceding five fiscal years are due and payable in accordance with G.S. 105-277.1F when the property loses its eligibility for deferral as a result of a disqualifying event. A disqualifying event occurs when the property is sold, conveyed, leased, encumbered, or disposed of for a purpose other than burial purposes.

(b) ~~Taxable real property set apart for human burial purposes is hereby designated a special class of property under authority of Article V, Section 2(2) of the North Carolina Constitution, and it shall be assessed for taxation taking into consideration the following:~~Other

Property. – Real property not held for the purposes listed in subsection (a) of this section that is set apart for burial purposes is exempted from taxation. A county cannot deny the exemption provided under this subsection to a taxpayer that lacks a survey or plat detailing the exempt property.

~~(1) The effect on its value by division and development into burial plots;~~

~~(2) Whether it is irrevocably dedicated for human burial purposes by plat recorded with the Register of Deeds in the county in which the land is located; and~~

~~(3) Whether the owner is prohibited or restricted by law or otherwise from selling, mortgaging, leasing or encumbering the same.~~

(c) Terms. – For purposes of this section, the term ~~"real property" includes land, tombs, vaults, monuments, and mausoleums, and the term~~ "burial" includes ~~entombment.~~entombment and the term "real property" includes any of the following on the burial property:

(1) Land.

(2) Tombs, vaults, monuments, or mausoleums.

(3) Buildings, structures, improvements, or permanent fixtures."

SECTION 2H.1.(b) G.S. 105-277.1F(a) reads as rewritten:

"(a) Scope. – This section applies to the following deferred tax programs:

…

(5a) G.S. 105-278.2(a), commercial burial property.

…."

SECTION 2H.1.(c) G.S. 105-282.1 reads as rewritten:

"**§ 105-282.1. Applications for property tax exemption or exclusion; annual review of property exempted or excluded from property tax.**

(a) Application. – Every owner of property claiming exemption or exclusion from property taxes under the provisions of this Subchapter has the burden of establishing that the property is entitled to it. If the property for which the exemption or exclusion is claimed is appraised by the Department of Revenue, the application shall be filed with the Department. Otherwise, the application shall be filed with the assessor of the county in which the property is situated. An application must contain a complete and accurate statement of the facts that entitle the property to the exemption or exclusion and must indicate the municipality, if any, in which the property is located. Each application filed with the Department of Revenue or an assessor shall be submitted on a form approved by the Department. Application forms shall be made available by the assessor and the Department, as appropriate.

Except as provided below, an owner claiming an exemption or exclusion from property taxes must file an application for the exemption or exclusion annually during the listing period.

(1) No application required. – Owners of the following exempt or excluded property do not need to file an application for the exemption or exclusion to be entitled to receive it:

a. Property exempt from taxation under G.S. 105-278.1 or ~~G.S. 105-278.2.~~G.S. 105-278.2(b).

…

(2) Single application required. – An owner of one or more of the following properties eligible for a property tax benefit must file an application for the benefit to receive it. Once the application has been approved, the owner does not need to file an application in subsequent years unless new or additional property is acquired or improvements are added or removed, necessitating a change in the valuation of the property, or there is a change in the use of the property or the qualifications or eligibility of the taxpayer necessitating a review of the benefit.

a. Property exempted from taxation under ~~G.S. 105-278.3,~~ G.S. 105-278.2(a), 105-278.3, 105-278.4, 105-278.5, 105-278.6, 105-278.7, or 105-278.8.

…."

SECTION 2H.2. G.S. 105-275 reads as rewritten:

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

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

…

(44a) Vaccines.

…."

SECTION 2H.3. This Subpart is effective for taxes imposed for taxable years beginning on or after July 1, 2022.

SUBPART II-I. GRADUATE LATE PAYMENT PENALTIES

SECTION 2I.1. G.S. 105-236(a)(4) reads as rewritten:

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

a. When the amount of tax shown as due on an amended return is paid when the return is filed.

b. When the Secretary proposes an assessment for tax due but not shown on a return and the tax due is paid within 45 days after the later of the following:

1. The date of the notice of proposed assessment of the tax, if the taxpayer does not file a timely request for a Departmental review of the proposed assessment.

2. The date the proposed assessment becomes collectible under one of the circumstances listed in G.S. 105-241.22(3) through (6), if the taxpayer files a timely request for a Departmental review of the proposed assessment."

SECTION 2I.2. This Subpart becomes effective January 1, 2022, and applies to penalties assessed on or after that date.

PART III. IRC UPDATE AND OTHER INCOME TAX CHANGES

SUBPART III-A. IRC UPDATE

SECTION 3A.1.(a) G.S. 105-228.90(b)(7) reads as rewritten:

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

SECTION 3A.1.(b) G.S. 105-153.5(a)(2)b. reads as rewritten:

"b. Mortgage Expense and Property Tax. – The amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence plus the amount allowed as a deduction for property taxes paid or accrued on real estate under section 164 of the Code for that taxable year. For taxable years 2014 through ~~2020,~~ 2021, the amount allowed as a deduction for interest paid or accrued during the taxable year under section 163(h) of the Code with respect to any qualified residence shall not include the amount for mortgage insurance premiums treated as qualified residence interest. The amount allowed under this sub-subdivision may not exceed twenty thousand dollars ($20,000). For spouses filing as married filing separately or married filing jointly, the total mortgage interest and real estate taxes claimed by both spouses combined may not exceed twenty thousand dollars ($20,000). For spouses filing as married filing separately with a joint obligation for mortgage interest and real estate taxes, the deduction for these items is allowable to the spouse who actually paid them. If the amount of the mortgage interest and real estate taxes paid by both spouses exceeds twenty thousand dollars ($20,000), these deductions must be prorated based on the percentage paid by each spouse. For joint obligations paid from joint accounts, the proration is based on the income reported by each spouse for that taxable year."

SECTION 3A.1.(c) G.S. 105-153.5(c2) reads as rewritten:

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

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

…

(18) For taxable ~~year 2020,~~ years 2020 through 2025, a taxpayer must add the amount excluded from the taxpayer's gross income for payment by an employer, whether paid to the taxpayer or to a lender, of principal or interest on any qualified education loan, as defined in section 221(d)(1) of the Code, incurred by the taxpayer for education of the taxpayer. The purpose of this subdivision is to decouple from the exclusion for certain employer payments of student loans under section 2206 of the CARES ~~Act.~~ Act or under the Consolidated Appropriations Act, 2021, P.L. 116-260.

…

(20) A taxpayer must add the amount of any expense deducted under the Code to the extent ~~that payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b) of the CARES Act, and the income associated with the forgiveness is excluded from gross income pursuant to section 1106(i) of the CARES Act. The term "covered loan" has the same meaning as defined in section 1106 of the CARES Act.~~ the expense is allocable to income that is either wholly excluded from gross income or wholly exempt from the taxes imposed by this Part.

(21) For taxable years 2021 and 2022, a taxpayer must add an amount equal to the amount by which the taxpayer's deduction under section 274(n) of the Code exceeds the deduction that would have been allowed under the Internal

Revenue Code as enacted as of May 1, 2020. The purpose of this subdivision is to decouple from the increased deduction under the Consolidated Appropriations Act, 2021, P.L. 116-260, for business-related expenses for food and beverages provided by a restaurant.

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

(23) For taxable year 2020, a taxpayer must add the amount excluded from the taxpayer's gross income for unemployment compensation received by the taxpayer under section 85(c) of the Code. The purpose of this subdivision is to decouple from the exclusion from income for unemployment compensation under section 9042 of the American Rescue Plan Act of 2021."

SECTION 3A.1.(d) G.S. 105-130.5(a)(32) reads as rewritten:

"(32) The amount of any expense deducted under the Code to the extent ~~that payment of the expense results in forgiveness of a covered loan pursuant to section 1106(b) of the CARES Act and the income associated with the forgiveness is excluded from gross income pursuant to section 1106(i) of the CARES Act. The term "covered loan" has the same meaning as defined in section 1106 of the CARES Act.~~the expense is allocable to income that is either wholly excluded from gross income or wholly exempt from the taxes imposed by this Part."

SUBPART III-B. REDUCE IMPACT OF FEDERAL SALT CAP BY ALLOWING CERTAIN PASS-THROUGH ENTITIES TO ELECT TO PAY TAX AT THE ENTITY LEVEL

SECTION 3B.1.(a) G.S. 105-131(b) reads as rewritten:

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

…

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

SECTION 3B.1.(b) G.S. 105-131.1 reads as rewritten:

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

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

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

SECTION 3B.1.(c) Part 1A of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

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

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

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

G.S. 105-153.7. The North Carolina taxable income of a taxed S Corporation is determined as follows:

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

a. Each shareholder's pro rata share of the taxed S Corporation's income or loss, subject to the adjustments provided in G.S. 105-153.5 and G.S. 105-153.6, attributable to the State.

b. Each resident shareholder's pro rata share of the taxed S Corporation's income or loss, subject to the adjustments provided in G.S. 105-153.5 and G.S. 105-153.6, not attributable to the State with respect to such taxable period.

(2) Separately stated items of deduction are not included when calculating each shareholder's pro rata share of the taxed S Corporation's taxable income. For purposes of this subdivision, separately stated items are those items described in section 1366 of the Code and the regulations under it.

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

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

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

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

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

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

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

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

G.S. 105-153.5(c3)(1). The Secretary must send the shareholders a notice of proposed assessment in accordance with G.S. 105-241.9. For purposes of this subsection, the term "tax debt" has the same meaning as defined in G.S. 105-243.1(a).

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

SECTION 3B.1.(d) G.S. 105-131.7 is amended by adding a new subsection to read:

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

SECTION 3B.1.(e) G.S. 105-131.8(a) reads as rewritten:

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

SECTION 3B.2.(a) G.S. 105-153.3 reads as rewritten:

"**§ 105-153.3. Definitions.**

The following definitions apply in this Part:

…

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

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

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

…."

SECTION 3B.2.(b) G.S. 105-154(d) reads as rewritten:

"(d) Payment of Tax on Behalf of Nonresident Owner or Partner. – If a business conducted in this State is owned by a nonresident individual or by a partnership having one or more nonresident members, the manager of the business shall report information concerning the earnings of the business in this State, the distributive share of the income of each nonresident owner or partner, and any other information required by the Secretary. The distributive share of the income of each nonresident partner includes any guaranteed payments made to the partner. The manager of the business shall pay with the return the tax on each nonresident owner or partner's share of the income computed at the rate levied on individuals under G.S. 105-153.7. The business may deduct the payment for each nonresident owner or partner from the owner or partner's distributive share of the income of the business in this State. If the nonresident partner is not an individual and the partner has executed an affirmation that the partner will pay the tax with its corporate, partnership, trust, or estate income tax return, the manager of the business is not required to pay the tax on the partner's share. In this case, the manager shall include a copy of the affirmation with the report required by this subsection. The affirmation must be annually filed by the nonresident partner and submitted by the manager by the due date of the report required in this subsection. Otherwise, the manager of the business is required to pay the tax on the nonresident partner's share. Notwithstanding the provisions of G.S. 105-241.7(b), the manager of the business may not request a refund of an overpayment made on behalf of a nonresident owner or partner if the manager of the business has previously filed the return and paid the tax due. The nonresident owner or partner may, on its own income tax return, request a refund of an overpayment made on its behalf by the manager of the business within the provisions of G.S. 105-241.6. This subsection does not apply to a partnership with respect to any taxable period for which it is a taxed partnership."

SECTION 3B.2.(c) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

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

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

(1) An individual.
(2) An estate.
(3) A trust described in section 1361(c)(2) of the Code.
(4) An organization described in section 1361(c)(6) of the Code.

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

(1) The North Carolina taxable income of a taxed partnership with respect to such taxable period shall be equal to the sum of the following:
a. Each partner's distributive share of the taxed partnership's income or loss, subject to the adjustments provided in G.S. 105-153.5 and G.S. 105-153.6, attributable to the State.
b. Each resident partner's distributive share of the taxed partnership's income or loss, subject to the adjustments provided in G.S. 105-153.5 and G.S. 105-153.6, not attributable to the State with respect to such taxable period.

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

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

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

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

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

(d) Deduction Allowed for Partners of a Taxed Partnership. – The partners of a taxed partnership are allowed a deduction as specified in G.S. 105-153.5(c3)(3). This adjustment is only allowed if the taxed partnership complies with the provisions of subsection (f) of this section.

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

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

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

SECTION 3B.3. G.S. 105-153.5 is amended by adding a new subsection to read:

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

(1) A taxpayer that is a shareholder of a taxed S Corporation may deduct the amount of the taxpayer's pro rata share of income from the taxed S Corporation to the extent it was included in the taxed S Corporation's North Carolina taxable income and the taxpayer's adjusted gross income.

(2) A taxpayer that is a shareholder of a taxed S Corporation must add the amount of the taxpayer's pro rata share of loss from the taxed S Corporation to the extent it was included in the taxed S Corporation's North Carolina taxable income and the taxpayer's adjusted gross income.

(3) A taxpayer that is a partner of a taxed partnership may deduct the amount of the taxpayer's distributive share of income from the taxed partnership to the extent it was included in the taxed partnership's North Carolina taxable income and the taxpayer's adjusted gross income.

(4) A taxpayer that is a partner of a taxed partnership must add the amount of the taxpayer's distributive share of loss from the taxed partnership to the extent it was included in the taxed partnership's North Carolina taxable income and the taxpayer's adjusted gross income."

SECTION 3B.4.(a) G.S. 105-153.9(a) reads as rewritten:

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

…

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

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

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

SECTION 3B.4.(b) G.S. 105-160.4 reads as rewritten:

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

…

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

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

SECTION 3B.5.(a) G.S. 105-163.38 is amended by adding a new subdivision to read:

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

SECTION 3B.5.(b) G.S. 105-163.39 is amended by adding a new subsection to read:

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

SECTION 3B.6. This Subpart is effective for taxable years beginning on or after January 1, 2021.

SUBPART III-C. CREATE SEPARATE STATE NET OPERATING LOSS CALCULATION FOR INDIVIDUAL INCOME TAX PURPOSES

SECTION 3C.1.(a) G.S. 105-153.5 reads as rewritten:

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

…

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

…

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

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

…

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

…."

SECTION 3C.1.(b) Part 2 of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(f) Federal Net Operating Loss Carryforwards. – The portion of a taxpayer's federal net operating loss carryforward that was not absorbed in tax years beginning prior to January 1, 2021, may be included in the amount of a taxpayer's State net operating loss in taxable years beginning on or after January 1, 2021. The federal net operating loss carryforward is only allowed as a State net operating loss in tax years beginning after January 1, 2021, to the extent that it meets all of the following conditions:

(1) The loss would have been allowed in that taxable year under section 172 of the Code as enacted on May 1, 2020.

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

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

SECTION 3C.1.(c) This Subpart is effective for taxable years beginning on or after January 1, 2021.

PART IV. REVENUE LAWS TECHNICAL, CLARIFYING, AND ADMINISTRATIVE CHANGES

SUBPART IV-A. PERSONAL INCOME TAX CHANGES

SECTION 4A.1. G.S. 105-153.5(b) reads as rewritten:

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

…

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

SECTION 4A.2. G.S. 105-153.5(c2) reads as rewritten:

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

…

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

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

…."

SECTION 4A.3. G.S. 105-153.9(a)(2) reads as rewritten:

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

SECTION 4A.4. G.S. 105-163.7(b) reads as rewritten:

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

SECTION 4A.5. G.S. 105-163.8 is amended by adding a new subsection to read:

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

SECTION 4A.6. G.S. 105-241.6(b)(5) reads as rewritten:

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

…

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

SECTION 4A.7. G.S. 105-252.1 reads as rewritten:

"**§ 105-252.1. Use of a TTIN.**

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

SECTION 4A.8. Section 1.2(a) of S.L. 2021-16 reads as rewritten:

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

SUBPART IV-B. CORPORATE INCOME TAX CHANGES

SECTION 4B.1.(a) G.S. 105-83(d) reads as rewritten:

"(d) This section does not apply to the following:

(1) ~~corporations liable for the tax levied under G.S. 105-102.3 or to savings~~ Banks. For purposes of this subdivision, the term "bank" has the same meaning as defined in G.S. 105-130.7B(b).

(2) Savings and loan associations."

SECTION 4B.1.(b) This section is effective when it becomes law and applies retroactively for taxable years beginning on or after July 1, 2016.

SECTION 4B.2.(a) G.S. 105-130.5(a)(31) reads as rewritten:

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

…

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

SECTION 4B.2.(b) G.S. 105-130.5(b) reads as rewritten:

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

…

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

SECTION 4B.3.(a) G.S. 105-130.7B(b)(4) reads as rewritten:

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

…

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

SECTION 4B.3.(b) This section is effective when it becomes law and applies retroactively for taxable years beginning on or after January 1, 2018.

SECTION 4B.4. G.S. 105-130.8A(c) reads as rewritten:

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

SECTION 4B.5. G.S. 105-251(a) reads as rewritten:

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

(1) Information that identifies the taxpayer.

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

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

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

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

~~(5)~~<u>(6)</u> Other information the law requires a taxpayer to provide or the Secretary needs to perform a duty a law requires the Secretary to perform."

SUBPART IV-C. SALES AND USE TAX CHANGES

SECTION 4C.1.(a) G.S. 105-164.13E(a)(7) reads as rewritten:

"(7) Any of the following animals:

a. ~~Baby chicks and poults.~~<u>Fowl.</u>

b. Livestock."

SECTION 4C.1.(b) This section is effective retroactively to July 1, 2020, and applies to purchases made on or after that date.

SECTION 4C.2. G.S. 105-259(b) reads as rewritten:

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

…

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

…."

SUBPART IV-D. EXCISE TAX HEARINGS CHANGES

SECTION 4D.1. G.S. 105-113.4B reads as rewritten:

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

…

(a1) ~~Revocation.~~ <u>Summary Revocation and Procedure.</u> – The Secretary may summarily revoke a license issued under this Article when the Secretary ~~finds~~ <u>determines</u> that the licensee is incurring liability for the tax imposed under this Article after failing to pay a tax when due under this Article. ~~In addition, the~~ <u>The Secretary must send a revoked licensee a notice of the revocation and a notice of hearing. The hearing must be held within 10 days after the date of the</u>

notice of revocation unless the revoked licensee requests, before the day of the hearing, that the hearing be rescheduled. Upon receipt of a timely request, the Secretary must reschedule the hearing and provide at least 10 days' notice of the rescheduled hearing. The revocation is not stayed pending the hearing decision. A notice of hearing under this subsection must be in writing and indicate the date, time, and place of the hearing. A hearing must be conducted as prescribed by the Secretary. The Secretary must issue a final decision and notify the revoked licensee in writing within 10 days of the hearing. The final decision must state the basis for the decision. The statement of the basis of a revocation does not limit the Department from changing the basis.

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

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

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

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

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

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

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

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

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

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

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

SECTION 4D.2. Article 36B of Chapter 105 of the General Statutes is amended by adding the following new section:

"**§ 105-449.47B. Revocation of license.**

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4D.3. G.S. 105-449.76 reads as rewritten:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 4D.4. G.S. 119-19 reads as rewritten:

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

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

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

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

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

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

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

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

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

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

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

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

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

(b) Hearing Procedure. – The Secretary must ~~send a person whose license is summarily revoked a notice of the revocation and must give the person an opportunity to have a hearing on~~

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

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

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

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

SECTION 4D.5. This Subpart becomes effective January 1, 2022, and applies to summary revocations and non-summary revocations initiated by the Department on or after that date.

SUBPART IV-E. OTHER EXCISE TAX CHANGES

SECTION 4E.1. G.S. 105-113.8 is recodified as G.S. 105-113.4H.

SECTION 4E.2.(a) G.S. 105-113.11 is recodified as G.S. 105-113.4I.

SECTION 4E.2.(b) G.S. 105-113.4I, as recodified by subsection (a) of this section, reads as rewritten:

"**§ 105-113.4I. Licenses required.**

~~After the effective date of this Article, no~~ A person ~~shall~~ may not engage in business as a ~~distributor~~ distributor, wholesale dealer, or retail dealer in this State, without having first obtained from the Secretary the appropriate license for that purpose as prescribed ~~herein. Any~~ in this Article. A license required by this Article ~~shall be~~ is in addition to any ~~and all~~ other licenses ~~which~~ that may be required by law."

SECTION 4E.3.(a) G.S. 105-113.29 is recodified as G.S. 105-113.4J.

SECTION 4E.3.(b) G.S. 105-113.4J, as recodified by subsection (a) of this section, reads as rewritten:

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

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

SECTION 4E.4. G.S. 105-113.33 is recodified as G.S. 105-113.4K.

SECTION 4E.5. G.S. 105-113.18(2) reads as rewritten:

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

SECTION 4E.6. G.S. 105-113.35(d) reads as rewritten:

"(d) Manufacturer's Option. – A manufacturer who is not a retail dealer and who ships tobacco products other than cigarettes to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the tobacco products. ~~A manufacturer who is not a retail dealer and who ships vapor products to either a wholesale dealer or retail dealer licensed under this Part may apply to the Secretary to be relieved of paying the tax imposed by this section on the vapor products shipped to either a wholesale dealer or retail dealer.~~ Once granted permission, a manufacturer may choose not to pay the tax until otherwise notified by the Secretary but is not relieved from filing a report as required by this Part. To be relieved of payment of the tax imposed by this section, a manufacturer must comply with the requirements set by the Secretary.

Permission granted under this subsection to a manufacturer to be relieved of paying the tax imposed by this section applies to an integrated wholesale dealer with whom the manufacturer is an affiliate. A manufacturer must notify the Secretary of any integrated wholesale dealer with whom it is an affiliate when the manufacturer applies to the Secretary for permission to be relieved of paying the tax and when an integrated wholesale dealer becomes an affiliate of the manufacturer after the Secretary has given the manufacturer permission to be relieved of paying the tax.

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

SECTION 4E.7. G.S. 105-113.37 reads as rewritten:

"**§ 105-113.37. Payment of tax.**

(a) Monthly Report. – Taxes levied by this ~~Article~~ Part are payable by a licensed wholesale dealer or licensed retail dealer when a report is required to be filed. A report is due on a monthly basis. A monthly report covers tobacco ~~products~~ products, other than cigarettes, sold, shipped, delivered, or otherwise disposed of in this State occurring in a calendar month and is due within 20 days after the end of the month covered by the report. A report ~~shall~~ must be filed on a form provided by the Secretary and ~~shall~~ must contain the information required by the Secretary.

(a1) Use Tax Report. – A person who is not a licensed wholesale dealer or licensed retail dealer and has acquired non-tax-paid tobacco products, other than cigarettes, for sale, use, or consumption, subject to the tax imposed by this Part must, within 96 hours after receipt of the tobacco products, file a report in the form prescribed by the Secretary showing the amount of tobacco products received and any other information required by the Secretary. The report must be accompanied by payment of the full amount of the tax.

…."

SECTION 4E.8. G.S. 105-113.83 reads as rewritten:

"**§ 105-113.83. Payment of excise taxes.**

…

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

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

(1) The brewery or winery holds a permit issued under G.S. 18B-1101, 18B-1102, or 18B-1104.

(2) The brewery or winery transfers malt beverages or wine to a wholesaler permitted under G.S. 18B-1107 or G.S. 18B-1109.

(3) The wholesaler agrees in writing to be responsible for the tax due on the transferred malt beverages or wine.

(4) The brewery or winery files a report when the tax would otherwise be due reporting the transfer of malt beverages or wine to the wholesaler.

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

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

…."

SECTION 4E.9. G.S. 105-113.86 reads as rewritten:

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

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

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

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

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

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

SECTION 4E.10.(a) G.S. 105-236(a)(2) reads as rewritten:

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

SECTION 4E.10.(b) This section becomes effective January 1, 2022, and applies to penalties assessed on or after that date.

SECTION 4E.11. G.S. 105-449.45 reads as rewritten:

"**§ 105-449.45. Returns of carriers.**

…

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

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

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

…."

SECTION 4E.12.(a) G.S. 105-449.60 reads as rewritten:

"**§ 105-449.60. Definitions.**

The following definitions apply in this Article:

…

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

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

…."

SECTION 4E.12.(b) This section becomes effective January 1, 2022.

SECTION 4E.13.(a) G.S. 105-449.115 reads as rewritten:

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

…

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

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

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

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

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

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

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

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

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

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

…."

SECTION 4E.13.(b) G.S. 105-449.115A reads as rewritten:

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

…

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

(1) Carry the invoice, bill of sale, or shipping document in the conveyance for which it is issued when transporting the motor fuel described in it.

(2) Show the invoice, bill of sale, or shipping document upon request when transporting the motor fuel described in it.

(3) ~~Keep~~ Maintain a copy of the invoice, bill of sale, or shipping document at a centralized place of business for at least three years from the date of delivery.

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

a. Notifies the Secretary before transporting the motor fuel into a state other than the state designated on the shipping document.

b. Receives from the Secretary a confirmation number authorizing the shipment of motor fuel to a state other than the state designated on the shipping document.

c. Contemporaneously notes on the shipping document the change in destination state and the confirmation number received from the Secretary.

(5) Upon delivery, provide a copy of the shipping document to the person to whom the motor fuel is delivered.

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

…."

SECTION 4E.13.(c) This section becomes effective January 1, 2022.

SECTION 4E.14.(a) G.S. 105-449.123 reads as rewritten:

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

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

(1) The storage tank of the storage facility must be marked if the storage tank is visible.

(2) The fillcap or spill containment box of the storage facility must be marked.

(3) The dispensing device that serves the storage facility must be marked.

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

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

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

SECTION 4E.14.(b) This section becomes effective January 1, 2022, and applies to penalties assessed on or after that date.

SUBPART IV-F. LOCAL GOVERNMENT TAX CHANGES

SECTION 4F.1.(a) G.S. 105-278(a) reads as rewritten:

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

SECTION 4F.1.(b) This section is effective retroactively to June 19, 2020.

PART V. SAVINGS RESERVE TRANSFER

SECTION 5.(a) In addition to the amount required under G.S. 143C-4-2, the State Controller shall transfer from the General Fund to the Savings Reserve the sum of one billion dollars ($1,000,000,000) in the 2021-2022 fiscal year and the sum of three hundred eighty-eight million three hundred sixty-five thousand four hundred fifty-three dollars ($388,365,453) in the 2022-2023 fiscal year. This transfer is not an "appropriation made by law," as that phrase is used in Section 7(1) of Article V of the North Carolina Constitution.

SECTION 5.(b) This Part becomes effective July 1, 2021.

PART VI. EFFECTIVE DATE

SECTION 6. Except as otherwise provided, this act is effective when it becomes law.