SENATE BILL 605:
Various Changes to the Revenue Law

This Bill Analysis reflects the contents of the bill as it was presented in committee.

2015-2016 General Assembly

Committee:	House Finance	**Date:**	September 22, 2015
Introduced by:	Sens. Rucho, Rabon, Tillman	**Prepared by:**	Trina Griffin Committee Counsel
Analysis of:	PCS to Fourth Edition S605-CSSVxr-46		

BILL ANALYSIS: Except as otherwise provided, the sections in the bill would become effective when the act becomes law. Many of the changes in the bill are recommendations of the Department of Revenue.

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	PART I: BUSINESS TAX CHANGES
1.1	Repeals the annual franchise or privilege tax on mutual burial associations, effective for taxes payable on or after April 1, 2016. The Department of Revenue collected $750 in franchise tax on mutual burial associations in 2014. The General Assembly repealed most of the State privilege license taxes in the mid-1990s as an archaic form of taxation. The tax rate varies from $15 to $50, depending upon the membership of the association. There are currently 60 to 65 mutual burial associations, and all but three have a tax liability of $15.
1.2	Corrects a statutory cross-reference.
1.3	Defines a "qualified air freight forwarder" as a company that is an affiliate of an airline and whose air freight forwarding business is primarily carried on with that affiliated airline. The provision allows a qualified air freight forwarder to utilize its affiliated airline's revenue ton miles factor for purposes of apportioning its income to North Carolina. Without this change, an air freight forwarder that owns no planes would be considered a service company and would be subject to the three-factor apportionment formula.
1.4	Corrects a statutory reference.
1.5	Clarifies that an exercise of the royalty reporting option by a taxpayer does not nullify nexus, and does not permit receipts to be excluded from the calculation of the sales factor.
	PART II: PERSONAL TAX CHANGES
2.1(a)	Restores a miscellaneous itemized deduction applicable when a taxpayer restores a substantial amount held under claim of right that the taxpayer included in gross income for a prior taxable year because it appeared that taxpayer had an unrestricted right to that item. This provision prevents a person from paying income tax on amounts the person did not receive. An example of this type of situation is a taxpayer who works on commission. The Department of Revenue recommended this change. Allows an itemized deduction for wagering losses to the extent allowed by federal law. Under the federal itemized deduction, the loss may not exceed winnings. This subsection becomes effective for taxable years beginning on or after January 1, 2014.

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2.1(b)	Adds a deduction for the purpose of preventing double taxation of income. This section becomes effective for taxable years beginning on or after January 1, 2014. The American Recovery & Reinvestment Act of 2009 permitted an individual or a corporate taxpayer with income from business indebtedness discharged by the reacquisition of a debt instrument occurring in 2009 or 2010 to defer that income until 2014. Beginning in 2014, the taxpayer is required to recognize the income ratably over a 5-year period for federal income tax purposes. NC decoupled from this federal law change in S.L. 2009-451. Therefore, the taxpayer has already recognized the income for State tax purposes. In 2009, G.S. 105-134.6 was amended to provide a deduction from federal taxable income for this income. The deduction was inadvertently omitted from the list of deductions when G.S. 105-134.6 was recodified and amended as G.S. 105-153.5.
2.2	Provides that an individual taxpayer must adjust federal adjusted gross income to prevent a double benefit of the federal net operating loss (NOL) carryover. This provision becomes effective for taxable years beginning on or after January 1, 2015. North Carolina piggybacks the federal NOL law, which instructs taxpayers to deduct the entire amount of NOL being carried to that year. If all of the NOL is not used, the unused amount is carried forward to the succeeding year. If North Carolina has additions to federal taxable income, they would be offset by the unused NOL and the taxpayer would also benefit from the unused NOL in the succeeding year. To prevent the double benefit, this addition to federal adjusted gross income is needed. The adjustment was required under G.S. 105-134.6, but was inadvertently omitted when G.S. 105-134.6 was recodified and amended as G.S. 105-153.5.
2.3	Corrects a statutory reference and removes obsolete language.
PART III: SALES TAX CHANGES	
3.1	S.L. 2014-66 clarified the authority of the Department of Revenue to collect the 911 fee paid on prepaid wireless service. This section conforms the effective date of the collection authority to when the fee was initially imposed.
3.2(a)	This subsection does the following removes obsolete definitions and updates the statutory reference to the Streamlined Sales Tax Agreement.
3.2(b)	Simplifies the sales tax application for storage by removing exceptions that are problematic to administer because taxpayers often do not retain sufficient documentation to support the exceptions to the definition of "storage". This subsection becomes effective January 1, 2016.
3.3	Corrects a statutory cross-reference.
3.4	The tax treatment for receipts from a ticket reseller was changed in S.L. 2014-3. This section makes a conforming change by recognizing who is the retailer for purposes of that transaction.
3.5	Changes the term "affixed" to "applied" so the terminology is consistent with the terminology used in the definition and with the remainder of the statute.
3.6	Clarifies the reporting period a retailer who receives sales tax due from a facilitator must use.
3.7	Replaces a term with the defined term.
3.8	Changes the term "conditional service contract" to "conditional contract" so that the transactions in the statutory section will not be confused with a service contract. The transactions addressed in this section concern tangible personal property sold below cost if purchased with a contract. An example of this type of transaction is a mobile phone sold for a

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	discounted price if purchased with a mobile phone plan. This section also clarifies what the presumed sales price of the item is when a portion of the conditional contract is taxable and a portion of it is not. The current law addresses the situation where the entire contract is taxable, or the entire contract is not taxable, but not the situation where it is partially taxable. This section provides that the presumed sales price of the item is equal to the percentage of the service in the contract that is not taxable. Lastly, it makes a conforming change to the local sales tax base to clarify that the local sales tax applies to the presumed sales price.
3.9	Subsection (a) repeals the sales tax exemption for items sold by a nonprofit organization when the receipts from the sale of the items will be directly or indirectly contributed to the State or school. An example of an entity that benefits from this exemption is a museum gift shop. Subsection (b) creates a new sales tax exemption for food, prepared food, soft drinks, and other items of tangible personal property sold not for profit for or at an event that is sponsored by an elementary or secondary school when the net proceeds will be given to the school. This section becomes effective January 1, 2016.
3.10	Provides that charges for installation, delivery, and interior design services must be separately stated and identified as such on the billing statement given to the purchaser to be exempt from sales tax. The Department requested this change.
3.11	Corrects a statutory reference and clarifies that fuel and piped natural gas exempt from sales tax because it is sold to a manufacturer for use in connection with the operation of a manufacturing facility must be used at a facility where the primary activity is manufacturing. This section becomes effective January 1, 2016.
3.12	Subsection (a) provides that the sales tax exemption for items purchased by a contractor apply to items purchased for the holder of a conditional farmer exemption certificate as well as the holder of a qualifying farmer exemption certificate. Subsection (b) corrects a statutory reference.
3.13	Clarifies that the refund for indirect purchases made by a person on behalf of a nonprofit organization does not apply to purchases of prepared food and accommodation rentals. This clarification is consistent with how the State sales tax exemption and refund provisions are administered.
3.14	Repeals an obsolete provision. The sales tax refund for businesses located in a low-tier area expired in 2014.
3.15	Removes the time period for which a person must maintain records. The three-year time period is misleading. Records should be retained for periods covered within a statute of limitations. The statute of limitations is generally three years. However, an ongoing audit may exceed a period of three years. And there is no statute of limitations for failure to file a return.
3.16	Adds "data" to the types of records the Secretary of Revenue may examine.
3.17	Makes changes necessitated by the Streamlined Sales and Use Tax Agreement. The change will allow service providers adequate time to make changes to their systems. This section also allows the Department to makes adjustments as needed to the tax matrix used by certified service providers.
3.18	Provides that a certified service provider may file with either the Secretary or the Streamlined

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	Sales Tax Governing Board a certificate of deposit, in addition to a bond or an irrevocable letter of credit.
3.19	This section clarifies that a park model RV is a recreational vehicle and is subject to the highway use tax. Under current law, it has been unclear whether a park model RV is subject to sales tax or highway use tax. This section would provide that whichever tax a retailer collected on a park model RV would be considered properly due and paid.
3.20	Clarifies that the white goods tax applies to any new white good purchased for storage, use, or consumption in this State.
3.21	Clarifies that the net proceeds of the One-Quarter Cent Local Option Sales Tax is allocated to the taxing county.
3.22	Disallows the State government sales tax exemption and sales tax refund of local taxes paid on indirect purchases for (i) occupational licensing board and (ii) State governmental entities that are specifically designated to apply for a sales tax refund under G.S. 105-164.14. An occupational licensing board is defined by G.S. 93B-1 to be "any board, committee, commission, or other agency in North Carolina which is established for the primary purpose of regulating the entry of persons into, and/or the conduct of persons within, a particular profession or occupation, and which is authorized to issue licenses; … the term does not include State agencies, staffed by full-time State employees, which as a part of their regular functions may issue licenses." The NC Bar Association and the NC State Board of Certified Public Accountants are occupational licensing boards under that definition, and they are also listed under G.S. 105-251.2. As such, these entities would no longer be eligible for the State sales tax exemption.
3.23	Delays the remittance of sales tax collected on the gross receipts from an admission charge to an entertainment activity. Currently, the sales tax proceeds must be remitted monthly or quarterly after the retailer receives the tax revenue. This section would require the proceeds to be remitted after the event occurs. This section would become effective January 1, 2016.
3.24	Provides that repair or replacement parts for a ready-mix concrete mill are subject to the 1%, $80 cap excise tax, regardless of whether the equipment is freestanding or affixed to a vehicle. Currently, purchases by ready-mix concrete manufacturers of mill machinery, equipment, parts, and accessories that are used directly in the manufacture of ready-mix concrete mills are subject to a 1% privilege tax, with a maximum of $80 per article. However, once a ready mix concrete mill becomes part of a truck, it is part of a motor vehicle; and a motor vehicle is not considered mill machinery. Repair parts and accessories to a motor vehicle are subject to State and local sales tax. This section becomes effective January 1, 2016.
3.25	Removes an obsolete sentence. In 2013, the General Assembly substantially changed the election laws. This sentence should have been deleted when the cross-reference to G.S. 163-287 was added.
3.26	Allows machinery and equipment used by secondary metal recyclers to be exempt from sales and use tax, and subject to the Article 5F 1% excise tax, $80 cap. It would also exempt electricity and fuel used by secondary metal recyclers from sales and use tax if the primary activity at the facility is recycling. This section would become effective retroactively to July

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	1, 2010. An expedited refund application period is given for taxpayers who paid the tax in accordance with the law.
3.27	Directs the Revenue Laws Study Committee to consider the application of or exemption from sales tax of various admission charges to an entertainment activity that are unclear under current law.
3.28	Defines qualified equipment used at ports facilities that is eligible for the 1%, $80 cap excise tax rate as not only the machinery and equipment but also the parts, attachments, and accessories for that equipment.
3.29	Under prior law, the term "facilitator" was only used in referring to the tax on accommodations. The term is now used in the administration of other taxes. This section modifies the term facilitator to reflect the use of the term in multiple statutes. Requested by DOR.
PART IV: EXCISE TAX CHANGES	
4.1	Conforms the bonding requirements entities that must pay excise tax on cigarettes and tobacco products. Provides that the entities must file a bond (or letter of credit) in an amount that is two times the monthly average liability of the taxpayer. The minimum amount of the bond is $2,000, the maximum amount of the bond is $2 million. The Secretary must periodically review the bonds, and adjust the amount based on changes in the taxpayer's liability.
4.2	Clarifies the applicability of the tax on other tobacco products to specify that the OTP rate does not apply to cigarettes that are taxed at 45¢ per pack, and does not apply to vapor products that are taxed at 5¢ per mL of consumable product.
4.3	Authorizes wine shippers to file excise tax returns on shipments once a year, rather than monthly.
4.4	Conforms the bonding requirements for the severance tax on energy minerals to the provisions for other excise taxes. Clarifies that the tax is imposed on the producer of the energy mineral. Repeals a provision that would have relieved the producer of paying the tax.
4.5	Makes three changes in regards to the disclosure of tax information: • Clarifies when information regarding sales by a nonparticipating manufacturer may be disclosed for reports required by the MSA. • Authorizes the Department to provide a list of entities licensed under the tobacco products tax Article to aid in the administration of the tobacco products tax. • Authorizes the Department to disclose tax information regarding motor fuel tax compliance to other IFTA (International Fuel Tax Agreement) jurisdictions.
4.6	Conforms the statutes for temporary trip permits for motor carriers to the current Department practice.
4.7	Authorizes the Secretary to appoint a designee to enter into agreements regarding the administration of IFTA. The agreements entered into may not impact the amount of motor fuel taxes due.
4.8	Clarifies the interest rate applicable to IFTA taxpayers.
4.9	Makes two changes to the motor fuel tax refund for off-highway use due to the changes in

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	S.L. 2015-2 that modified the motor fuels tax rate. Subsections (a) and (b) are conforming changes regarding the shift from two six-month base periods to one 12-month base period. Subsection (c) recodifies the definition for wholesale price. This definition was repealed in S.L. 2015-2 as the term is no longer needed in the calculation of the motor fuels tax rate. However, the definition is needed to calculate the refund for off-highway use. This section recodifies the definition in the motor fuel refund statute.
PART V: OTHER TAX CHANGES	
5.1	Extends the time period for which the Department may transfer an assessment against a responsible person.
5.2	Repeals an obsolete statute. The State made its last transitional local government hold harmless payment for repealed reimbursements in 2013.
5.3	Repeals an antiquated statute in Chapter 131E, Public Hospitals and puts the provisions pertaining to the taxability of public hospitals in the tax statutes, Chapter 105. It refers to repealed taxes and contains a blanket statement that the authority is exempt from all taxes. In practice, the hospitals apply for a refund of sales and use tax paid, G.S. 105-164.14. The property tax statutes exempt real and personal property of a hospital authority created under G.S. 131E-17 from tax, G.S. 105-278.1. The bill adds two provisions to ensure that the tax treatment of interest income from bond obligations remains exempt from corporate and individual income tax, and that motor fuel purchased by a hospital authority created under G.S. 131E-17 remains exempt from excise tax.
5.4	Repeals a reference to a repealed statute. G.S. 153A-152 was repealed effective July 1, 2015.
5.5	Removes a duplicative notice requirement required to be made by a servicer of a home loan. The statement mailing requirement and borrower notification requirement are satisfied when the person complies with the federal disclosure requirements.
5.6	Limits the State tax compliance requirements that must be met by applicants for an ABC permit or an ABC permit holder to the applicant or the permit holder. Under current law, the definition of the word "person" includes individuals that are not the actual permit holders.
5.7	Excludes index fund holdings from the Sudan Investment Act, at the request of the Office of the State Treasurer. The State Treasurer's index fund provider does not offer products that exclude Sudan. If the Sudan Act is not amended, the Department may need to consider transitioning these holdings into a more costly actively managed structure. Excluding index funds would align the Sudan Act to the Iran Divestment Act passed by the General Assembly in S.L. 2015-118.
5.8	Removes the sunset from S.L. 2011-373. This act sought to create an incentive for State agencies to voluntarily identify surplus real property by allowing the agency to receive a portion of the proceeds from the disposition of surplus real property and by allocating ½ of the proceeds from the disposition of the property to the Teachers' and State Employees' Retirement System.
5.9	Gives that the State Treasurer another set of regulated companies it may utilize to make short-term money market investments so the State may continue to diversify its investments. The State Treasurer makes short-term money market investments totaling billions of dollars each day. The State Treasurer requested this provision.
5.10	Broadens the purposes to which money in the Utility Account can be used. Under current law, it can only be used to create jobs. With this change, it would also be permissible to use it

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	to retain jobs and expand the existing job base.
5.11	This section contains the contents of House Bill 81, Expand 1%/$80 Rate for Mill Machinery, which passed the House on April 20, 2015. Subsection (a) would expand the 1%/$80 tax to apply to a company that is engaged in the fabrication of metal work and that has annual gross receipts of at least $8 million dollars derived from the fabrication. The rate would apply to purchases of equipment and repair parts that are capitalized by the company for tax purposes under the Code and that are used at the establishment in the fabrication of metal products or used to create equipment for the fabrication of metal products. Under this provision, a company would not be required to be "primarily engaged" in the fabrication of metal products. Also, the equipment would qualify regardless of whether it is primarily used to manufacture items for sale. Historically, this rate has been afforded to companies that manufacture a finished product for sale as distinguished from a company that manufactures an item for its own use in the fulfillment of a performance contract. Subsection (b) would direct the Revenue Laws Study Committee to study the scope and application of the privilege tax at the rate of 1% with an $80 cap for purchases of mill machinery and other equipment and report its findings, along with any legislative recommendations, to the 2016 Regular Session of the 2015 General Assembly.
5.12	Corrects a typo.
5.13	Corrects a statutory reference.
5.14	Amends the cost thresholds for damages resulting from an at-fault accident that are used in assigning points under the Safe Driver Incentive Plan for car insurance. The increase in the cost thresholds is meant to reflect the costs that result from the sales tax imposed on parts and labor.
5.15	Clarifies that the increase in the maximum highway use tax for certain motor vehicles applies to certificates of title issued on or after January 1, 2016, rather than to sales made on or after that date.
5.16	Corrects a typo.
5.17	These changes are needed to ensure that the distribution to counties enacted in S.L. 2014-241 do not impact the current calculations for the distribution of sales tax collected on food, or the city or county hold harmless.
PART VI: LOCAL OPTION SALES TAX FOR COUNTIES	
6.1	Part VI establishes a new local sales and use tax option of up to ½%-cent for education, maintains the current authorization with regard to the Article 43 local option sales tax for transportation purposes, and increases from ¼% to ½% the rate at which counties may levy a tax for general purposes. A county may levy any combination of the three local option sales and use taxes so long as the total local sales and use tax rate does not exceed the current cap. For 6 counties[1], the current cap is 2.75%; for the other 94 counties, the current cap is 2.5%. **New Article 43A: County Sales Tax for Public Education** Section 6.1 would give counties the authority to levy a local sales and use tax at a rate of up to one-half percent (1/2/%) if the majority of voters approve the levy of the tax in a referendum. The rate of tax must be in an increment of ¼% and must be at a rate that, if levied, would not

[1] Durham, Mecklenburg, Orange, Forsyth, Guilford, and Wake.

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	result in a total local rate in the county in excess of the current cap. The proceeds of the tax are not shared with the cities and may only be used as follows: • Public school capital outlay purposes or to retire any indebtedness incurred by the county for these purposes. • Salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. A classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction and a classroom teacher assistant is an employee of a local board of education employed as a teacher assistant who spends at least seventy percent (70%) of his or her work time assisting in a classroom. • Financial support of community colleges, including funds to supplement State financial support of community colleges. **Allocation of Article 43A Proceeds by County Commissioners** The provision would authorize a board of county commissioners to direct the amount of funds derived from the tax levied under Article 43A to be used for salaries of classroom teachers, salaries of classroom teacher assistants, and supplements of classroom teacher salaries. Without this language, the board could allocate funds to instructional services generally, but it could not allocate funds more specifically within that category of expenditures. In addition, a board of education would need approval from the board of county commissioners before it could decrease the amount of funds that were allocated by the board of county commissioners. There are similar provisions with regard to allocating funds for community colleges. Under current law, local board of education is required to prepare a budget using the uniform budget format and submit that budget to the board of county commissioners no later than May 15 of each year. The board of county commissioners must then determine the amount of county revenues to be appropriated in the county budget to the local board of education and may "in its discretion, allocate part or all of its appropriation by purpose, function, or project as defined in the uniform budget format." Once the board of county commissioners makes its appropriation, the board of education adopts its budget resolution subject to certain requirements found in G.S. 115C-432. Amendments to the budget resolution are allowed after adoption, but are subject to certain limitations found in G.S. 115C-433. For community colleges, a similar process is followed.[2] The board of trustees of a community college prepares a budget using forms developed by the State Board of Community Colleges. Community college budgets are broken into different parts requiring approval by different groups as follows: • State Current Fund Budget – Approved by the board of trustees and State Board of Community Colleges. • County Current Fund Budget - Approved by the board of trustees and the local tax-levying authority. • Institutional Fund Budget - Approved by the board of trustees. • Plant Fund Budget - Approved by the board of trustees, partly by the local tax-levying authority and partly by the State Board of Community Colleges.

[2]Article 4A of Chapter 115D establishes the budget process for community colleges.

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	G.S. 115D-55 requires the tax-levying authority to determine the amount of county revenues to be appropriated in the county budget to the community college and allows the authority to "allocate part or all of an appropriation by purpose, function, or project as defined in the budget manual as adopted by the State Board of Community Colleges." Once the tax-levying authority has made its appropriation, the budget is submitted to the State Board of Community Colleges for approval. G.S. 115D-56 requires that, once approved, the board of trustees must adopt a final budget resolution, and permits under G.S. 115D-58 that amendments be made to the budget subject to rules and regulations adopted by the State Board of Community Colleges and certain limits on amendments to local appropriations established in statute. **No Major Changes to Article 43: Local Government Sales and Use Tax for Public Transportation** Under current law, counties may levy, upon referendum, a local sales and use tax to be used only for public transportation if the county or at least one unit of local government in the county operates a public transportation system. "Public transportation system" is broadly defined as any combination of real and personal property established for purposes of public transportation, but specifically excludes streets, roads, and highways (except to the extent they are dedicated to public transportation vehicles). The rate of tax is ½% for the following six counties: Durham, Forsyth, Guilford, Mecklenburg, Orange, and Wake.[3] The rate of tax is ¼% for all other counties. Currently, the only counties levying a tax under this Article are Mecklenburg,[4] Durham,[5] and Orange[6] Counties. None of the 94 counties levy the 1/4¢ tax under this Article. Section 6.2 maintains the current authority that counties have with regard to the Article 43 tax except that it limits a county's ability to have more than one local option sales tax on the ballot in a single referendum. **Changes to Article 46: One-Quarter Cent (1/4¢) County Sales and Use Tax** In 2007, the General Assembly gave counties a local-option, quarter-cent sales tax. The tax must be approved by voters in a referendum before it can be adopted. The proceeds of the tax are not shared with the cities and may be used for any general purpose. Since the enactment of the authorization, 106 referendums have been held in 66 counties; of those, 29 were approved. Section 6.3 increases from ¼% to ½% the maximum rate of tax that may be levied under this Article. It further limits a county's ability to have more than one local option sales tax on the ballot in a single referendum.
PART VI: LOCAL OPTION SALES TAX FOR COUNTIES	
7	This section would authorize cities to levy a one-quarter cent (1/4%) local option sales and use tax without a referendum. A city must adopt a resolution and give at least 10 days' public

[3] Of these six counties, Durham and Orange are the only ones that also levy the quarter-cent tax under Article 46. Guilford and Mecklenburg have the quarter-cent on the November 2014 ballot.
[4] Mecklenburg County passed a one-half cent sales tax for transit, with 58% of the voters in favor, in November 1998. The county began levying the tax April 1, 1999.
[5] Durham County passed a one-half cent sales tax for transit, with 60% of the voters in favor, in November 2011. The county began levying the tax April 1, 2013.
[6] Orange County passed a one-half cent sales tax for transit, with 59% of the voters in favor, in November 2012. The county began levying the tax April 1, 2013.

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	notice of its intent to levy the tax and hold a public hearing. The tax would be administered in accordance with Article 39. The tax would not apply to food. A city may use the proceeds for any public purpose. Currently, no city levies a sales tax.
	PART VIII: AMEND LAWS PERTAINING TO THE NC MEDICAL BOARD
8	This section is identical to House Bill 543, which passed the House on April 21 and is currently in Senate Rules. **Subsection (a)** limits the terms of the terms of a Medical Board member to two complete three-year terms in a lifetime. **Subsection (b)** amends the qualifications for a physician, physician assistant, or nurse practitioner to add the requirement that the individual must not have served more than 72 months as a member of the Board. **Subsection (c)** is a technical change to capitalize "Review Panel." **Subsection (d)** adds new language to the law pertaining to recommending Board members to: (i) allow the Board to provide confidential and nonpublic licensing and investigative information to the Review Panel; (ii) to specify that all applications, records, papers, files, reports, investigative and licensing information received by the Review Panel as a result of soliciting, receiving and reviewing applications and making recommendations will not be considered public records; and (iii) to provide that the Review Panel is a public body within the meaning of Article 33C, Chapter 143, which establishes the policy of the state to conduct open hearings, deliberations, and actions, but specifies that the Review Panel will meet in closed session to review applications; interview applicants; review and discuss information; and to discuss, debate, and vote on recommendations from the Governor. The Review Panel is required to publish on its Internet site the names and practice addresses of all applicants within 10 days after the application deadline and to publish the names and practice address of nominees recommended to the Governor within 10 days and not less than 30 days prior to the expiration of the open position on the Board. **Subsection (e)** amends the law on the Board's requirement to collect and publish data by removing the requirement to report fax numbers, but does continue to require a current, active email address, which is considered a public record, and may be used or made available by the Board for the purpose of disseminating or soliciting information affecting public health or the practice of medicine. **Subsection (f)** removes a reference to making fax numbers available. **Subsection (g)** amends the law to specify that the Board must not deny an application for licensure based solely on the applicant's failure to become board certified. **Subsection (h)** increases from $350 to $400, the application fee payable to the NC Medical Board for each applicant for a license to practice medicine and surgery in the State. **Subsection (i)** increases from $175 to $250, the annual registration fee for every person licensed to practice medicine by the Board, except those who have a limited license to practice in a medical education and training program shall pay $125, and those who have a retired limited volunteer license pay no annual registration fee. This section also removes duplicate language contained in two subsections. A subsection is added to provide that the Board must not deny a licensee's annual registration based solely on the licensee's failure to become board certified.

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	Subsection (j) amends the law on disciplinary authority of the Board to provide that if the licensee has retained counsel, the Board may serve to both the licensee and the licensee's counsel orders to produce, appear, submit to assessment or examination or orders following a hearing or provide notice that the Board will not be taking further action against a licensee. **Subsection (k)** amends the law on disciplinary action pertaining to the written notice indicating charges made against the licensee to add a requirement that once charges have been issued, the parties may engage in discovery as provided in G.S. 1A 1, the North Carolina Rules of Civil Procedure. Additionally, the Board must provide the respondent or respondent's counsel with information obtained during an investigation, except for the following: 1) Information that is subject to attorney client privilege or is attorney work product. 2) Information that would identify an anonymous complainant. 3) Information generated during an investigation that will not be offered into evidence by the Board and is related to: (i) advice, opinions, or recommendation of the Board staff, consultants, or agents; or (ii) deliberations by the Board and its committees during an investigation. **Subsection (l)** amends the reporting requirements of disciplinary action by health care institutions to eliminate the requirement that hospitals report suspensions for delinquent medical records. **Subsection (m)** renames Article 1D, "Health Program for Medical Professionals." **Subsection (n)** amends the peer review agreement to provide that the Medical Board (Board) may enter into agreements with the NC Medical Society (Society), the NC Academy of Physician Assistants (Academy) and the NC Physicians Health Program (Program) to identify, review, and evaluate licensees of the Board, who have been referred to the Program, with regard to their ability to function in their professional capacity and to coordinate regimens for treatment and rehabilitation. The agreement must include guidelines for all items outlined below: 1) The assessment, referral, monitoring, support, and education of licensees of the Board by reason of a physical or mental illness, a substance use disorder, or professional sexual misconduct. 2) Procedures for the Board to refer licensees to the Program. 3) Criteria for the Program to report licensees to the Board. 4) A procedure by which licensees may obtain review of recommendations by the Program regarding assessment or treatment. 5) Periodic reporting of statistical information by the Program to the Board, the Society, and the Academy. 6) Maintaining the confidentiality of nonpublic information. The NC Physicians Health Program (Program) is described as an independent organization for medical professionals that provides screening, referral, monitoring, education, and support services. The Board, Society, and the Academy may provide funds for administration of the Program. The Program is required to report immediately to the Board detailed information about any licensee of the Board who meets any of the following criteria: 1) The licensee constitutes an imminent danger to patient care. 2) The licensee refuses to submit to an assessment as ordered by the Board, has entered into a monitoring contract and fails to comply with terms of the contract, or continues

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	to be unsafe to practice medicine after treatment. Any information acquired, created, or used in good faith by the Program under this health program is privileged, confidential, and not subject to discovery, subpoena, or other means of legal compulsion for release. No person participating in good faith in the Program can be required to disclose participation in a civil case. Activities conducted in good faith regarding to the agreements are not grounds for civil action. Upon written request of a licensee, the Program must provide the licensee and the licensee's legal counsel with a copy of a written assessment of the licensee. The licensee is also entitled to a copy of any written assessment created by a treatment provider or facility at the recommendation of the Program, to the extent permitted by State and federal laws and regulations. Such information is limited in its use and availability. The Board is granted authority to adopt, amend, or repeal rules to enforce the provisions above. **Subsection (o)** repeals the requirement that the Board provide the licensee or applicant access to all information its possession that the Board intends to offer into evidence in presenting its case at the contested hearing.