2023-2024 General Assembly

HOUSE BILL 259: Finance Provisions in the 2023 Appropriations Act.

Committee:	House Finance. If favorable, re-refer to Pensions and Retirement	**Date:**	April 4, 2023
Introduced by:	Reps. Lambeth, Saine, Arp	**Prepared by:**	Trina Griffin Staff Attorney
Analysis of:	Second Edition		

OVERVIEW: The finance provisions in House Bill 259, 2nd Edition (2023 Appropriations Act) include various fee changes as described in the chart below and the following tax-related changes contained in Part 42 of the bill:

- ***Personal income tax changes that include accelerating the reduction of the personal income tax rate to 4.5% in 2024, increasing the standard deduction, increasing the child deduction, establishing a refundable adoption tax credit, and creating a tax credit for live organ donation expenses.***
- ***Business-related tax reductions and credits that include reducing the franchise tax by 33% over 5 years, repealing the State privilege tax on professionals, increasing the credits for income-producing rehabilitated mill property, and making the historic rehabilitation tax credits and the mill rehabilitation tax credits permanent.***
- ***Sales tax changes that include:***
  - ***Exempting from sales tax food and certain services provided by a continuing care retirement community (CCRC) to its residents, forgiving outstanding assessments of CCRCs for failure to collect sales tax on food and certain services, and allowing CCRCs to apply for a refund of sales tax paid on taxable items from 2020 to 2023, which must be credited or refunded to the customer who paid the tax.***
  - ***Aligning the sales tax exemption for parts and accessories used in the repair and maintenance of certain aircraft with the existing sales tax exemption for labor on the same aircraft.***
  - ***Expanding the exemption on fuels and consumables used by boats engaged in the transportation of freight to include transport in intracoastal waterways, sounds, or rivers (currently limited to oceangoing vessels on the high seas).***
  - ***Extending by 4 years the sunset on the tax preferences for the professional motorsports industry.***
  - ***Extending by 4 years the sunset on the exemption for aviation gasoline and jet fuel for use in commercial aircraft.***
- ***Reenactment of a modified conservation tax credit equal to 25% of the fair market value of donated real property that may be used (1) for forestland or farmland preservation; (2) for fish and wildlife conservation; (3) as a buffer for military training and testing activities; (4) for floodplain protection; (5) for historic landscape conservation; (6) for public trails or access to public trails. The credit is capped at $500,000 for corporations and $250,000 for individuals.***

Fee Provisions

Section	Description
19G.4 LAW ***(p. 339)***	Establishes an annual registration fee of $150 for sex offender registration. $100 of the fee would be retained by the sheriff to whom the registrant is assigned and $50 of the fee would be remitted to the SBI. A sheriff may waive the fee upon a finding of indigency as documented by written findings by the sheriff.
20.1 ADMIN ***(p. 341)***	Codifies the 1.75% fee charged to vendors for sales of material goods transacted through the Department of Administration's e-Procurement System. The proceeds of the fee help maintain the system. The fee hasn't changed since it was established. With this change, the Department would not be able to change the fee without legislative approval.
30.1 INSUR ***(p. 349)***	Temporarily reduces the insurance regulatory fee from 6.5% to 4% for the 2023 calendar year. The revenue from the insurance regulatory fee supports the operation of the Department of Insurance. The balance in the Insurance Regulatory Fund exceeds what is necessary to defray the Department's cost of operations, including a reasonable margin for a reserve. The temporary rate reduction will spend down the excessive cash balance.
41.15(a) TRANS ***(p. 403)***	Increase by $1.00 the fees paid to License Plate Agency contractors for title transactions.

Tax Policy Provisions

Personal Income Tax Changes

Section	Description	Effective Date
42.1	***<u>Accelerate Reduction of Personal Income Tax Rate to 4.5%</u>*** This section would accelerate the reduction of the personal income tax rate by setting the rate at 4.5% in 2024 (rather than 2025 under current law). The scheduled reductions beyond 2025 would be unchanged. The individual income tax rate is 4.75% for the 2023 taxable year. It is scheduled to drop to 4.6% in 2024, to 4.5% in 2025, to 4.25% in 2026, and to 3.99% beginning in 2027.	When law.
42.2	***<u>Increase Standard Deduction</u>*** This section would increase the standard deduction amounts as follows, effective for taxable years beginning on or after January 1, 2024: • Married filing jointly: $25,500 to $26,000 • Married filing separately: $12,750 to $13,000 • Head of Household: $19,125 to $19,500 • Single: $12,750 to $13,000	For taxable years beginning on or after January 1, 2024.

42.3	***Increase Child Deduction*** This section would increase by 20% the child deduction amounts, which currently range from $500 to $3,000 and are based on AGI. The increase would be effective for taxable years beginning on or after January 1, 2024. The child deduction is for each qualifying child for whom the taxpayer is allowed a federal credit. With the increase, the amounts would range from $600 to $3,600. The deduction phases out for married filing jointly taxpayers with an AGI over $140,000 and for single filers with an AGI over $70,000.	For taxable years beginning on or after January 1, 2024.
42.4	***Establish Refundable Adoption Tax Credit*** This section would establish a refundable adoption tax credit for a taxpayer who is eligible for a federal adoption credit. The credit is equal to $2,000 for each eligible child for the taxable year in which the lawful adoption becomes final. The federal adoption credit is nonrefundable, but it may be carried forward for five years and is adjusted annually for inflation. For tax year 2022, the maximum amount is $14,890 per child. The federal credit is also subject to an income limitation with the modified AGI phaseout beginning at $223,410.	For taxable years beginning on or after January 1, 2024.
42.5	***Establish Income Tax Credit for Live Organ Donation Expenses*** This section would establish a nonrefundable tax credit of up to $5,000 for live organ donation expenses. A taxpayer who makes a live organ donation, or who claims as a dependent a person who makes a live organ donation, would be eligible for a tax credit for expenses incurred due to the donation. The credit would be equal to the lesser of the expenses incurred or $5,000. Qualifying expenses would be lost wages, transportation, lodging, and meals that are directly related to the procedure itself or are incurred due to evaluation, recovery, follow-ups, or rehospitalization associated with the procedure and that are not otherwise reimbursed. A taxpayer would not be permitted to take a medical expense deduction for the same expenses in addition to the credit.	The tax credit is effective for taxable years beginning on or after January 1, 2023.
Business-Related Tax Reductions & Credits		
42.6	***Reduce Franchise Tax Rate*** This section would reduce the franchise tax by 33% over a five-year period. The franchise tax applies to C Corporations and S Corporations (and those entities electing to be taxed as such). For a C Corporation, the tax rate is $1.50 per $1,000 of its tax base, with a $200 minimum. For an S Corporation, the tax rate is $200 for the first $1 million of its tax base, and $1.50 per $1,000 of its tax base that exceeds $1 million.	For taxable years beginning on or after January 1, 2025, and applicable to the calculation

<table>
<tr><td></td><td>This section would reduce the $1.50/$1,000 tax rate in 10-cent increments over a 5-year period:

In 2025 $1.40/$1,000
In 2026 $1.30/$1,000
In 2027 $1.20/$1,000
In 2028 $1.10/$1,000
After 2028 $1.00/$1,000</td><td>of franchise tax reported on the 2024 and later corporate income tax return.</td></tr>
<tr><td>42.7</td><td><u>Repeal State Privilege Tax on Professionals</u>

This section would repeal the State privilege tax on professionals, which is an annual tax for the privilege of carrying on the identified business or profession. The tax is $50 for all professionals, except that accountants must pay an additional $12.50 for each person who is engaged in supervising or handling the work of auditing, devising, or installing systems of accounts. The professionals currently subject to this tax are as follows:
Attorneys
Physicians, veterinarians, surgeons, osteopaths, chiropractors, chiropodists, dentists, ophthalmologists, opticians, optometrists, massage and bodywork therapists, or another person who practices a professional art of healing.
Professional engineers.
Registered land surveyors
Architects and landscape architects.
Photographers, a canvasser for any photographer, or an agent of a photographer in transmitting photographs to be copied, enlarged, or colored.
Real estate brokers.
Real estate appraisers.
A person who solicits or negotiates loans on real estate as agent for another for a commission, brokerage, or other compensation.
Funeral directors, embalmers, or funeral service licensees.
Home inspectors.</td><td>For taxable years beginning on or after July 1, 2023.</td></tr>
<tr><td>42.8</td><td><u>Increase Credits for Income-Producing Rehabilitated Mill Property</u>

This section would increase the credit amounts for making qualified expenditures with respect to income-producing rehabilitated mill property as follows:
For a site in a development tier one or two area, from 40% to 45%
For a site in a development tier three area, from 30% to 35%.
In 2006, the General Assembly created a tax credit for rehabilitating vacant historic manufacturing sites if the taxpayer spent at least $3 million to rehabilitate the site and if the expenditures qualify for a credit under the federal Code. The credit is a percentage of the qualified rehabilitation expenditures, and the percentage varies depending on the enterprise tier location of the site. For a site located in a tier one or two area, the credit amount is 40% of the qualified expenditures. For a site located in a tier 3 area, the credit amount is 30% of the qualified expenditures. The State credit is in addition to the 20% federal credit.</td><td>For qualifying expenditures occurring o or after January 1, 2024.</td></tr>
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	The Mill Rehabilitation Tax Credit Program originally expired January 1, 2015, for projects that had not obtained an eligibility certification by that date.[1] However, in the 2021 Appropriations Act, the General Assembly re-enacted the mill rehabilitation credit for new projects with a 2030 sunset.	
42.9	***Make Historic Rehabilitation and Historic Mill Credits Permanent*** This section would make permanent the Historic Rehabilitation Tax Credits Investment Program and the Mill Rehabilitation Tax Credit Program. They are both currently set to expire on January 1, 2030.	When law.
Sales Tax Changes		
42.10	***Sales Tax Exemption, Forgiveness, and Refunds for Continuing Care Retirement Communities*** North Carolina law imposes a sales tax on most goods and services, including prepared food, laundry, medical supplies, over-the-counter medicines, and certain home maintenance services. The tax is imposed regardless of who provides the goods and services unless the law provides a specific entity-based exemption. For purposes of North Carolina's sales tax law, a continuing care retirement community (CCRC) falls within the definition of retailer except for when it provides certain goods or services as part of healthcare services provided to its member-patients at a medical facility. This section would do three things as it relates to CCRCs: • ***Forgiveness.*** – It would reduce by 100% an assessment against a CCRC for failure to collect sales tax on taxable items provided by the CCRC to its residents. There are at least two assessments pending. • ***Exemption.*** – It would prospectively exempt from sales tax goods and services, other than alcoholic beverages, sold by a provider of continuing care to its independent living residents. The exemption would not apply to sales of alcoholic beverages, and a provider of continuing care must pay sales and use tax on the purchase price of an item that would be exempt under this provision. The exemption is effective for goods and services sold on or after October 1, 2023. • ***Refunds.*** – It would allow a provider of continuing care to apply for a refund of sales tax collected and remitted during the most recent three-year period. The refund must be reduced by the amount of sales and use tax due from the provider on the purchase price of the items and must be credited or refunded to the	The exemption is effective for sales occurring on or after October 1, 2023.

[1] For projects that had obtained an eligibility certification by that date, the credit would have expired for projects not placed in service by January 1, 2023.

	purchaser (resident) who paid the tax. The request for a refund must in writing and submitted on or before December 1, 2023.	
42.11	***<u>Extend Sunset on Exemptions and Refunds for Professional Motorsports Teams</u>*** This section would extend from January 1, 2024, to January 1, 2028, the sunset of the sales and use tax preferences for certain sales to professional motorsports racing teams or a related member of the team for use in competition in a sanctioned race series. The General Assembly first enacted sales tax preferences in this area in 2005; they have been extended many times. The sales tax preferences that would be extended by this section are as follows: ***<u>Sales Tax Exemptions</u>*** • A sales tax exemption for the sale, lease, or rental of an engine. • A sales tax exemption for the gross receipts derived from a service contract on or repair, maintenance, and installation services for a transmission, engine, rear-end gears, and any other item that is purchase, leased, or rented and that is exempt from sales tax. • A sales tax exemption for the gross receipts derived from an agreement to provide an engine, where the agreement does not meet the definition of a "service contract." • A sales tax exemption for an engine or a part to build or rebuild an engine for the purpose of providing an engine under an agreement to a professional motorsports racing team or a related member of a team for use in competition in a sanctioned race series. ***<u>Sales Tax Refunds</u>*** • A sales tax refund for sales taxes paid on aviation gasoline or jet fuel used to travel to or from a motorsports event in North Carolina, to a motorsports event in another state from North Carolina, or to North Carolina from a motorsports event in another state. • A sales tax refund equal to 50% of the sales taxes paid on tangible personal property, other than tires and accessories, which comprises any part of the motorsports vehicle.	When law.
42.12	***<u>Expand Aviation Sales Tax Exemption so that Exemption for Parts and Accessories Aligns with Exemption for Labor on Same Aircraft</u>*** This section would align the tax treatment of parts and accessories used in the repair and maintenance of certain aircraft with the tax treatment of the repair and maintenance services for the same type of aircraft.	For sales occurring on or after July 1, 2023.

	Generally, repair, maintenance, and installation services and service contracts are subject to sales and use tax. There are numerous exceptions, including one for services performed on the following types of aircraft: • Qualified aircraft (MTOW[2] >9,000 but <15,000 pounds). • Aircraft with an MTOW of more than 2,000 pounds. • Qualified jet engine. Parts and accessories used in the repair and maintenance of the following types of aircraft are also exempt from sales and use tax: • Commercial aircraft. • General aviation aircraft with a MTOW >9,000 but <15,000 pounds and over 100,000 pounds. • Qualified jet engine. As such, sales of parts and accessories for general aviation aircraft with a MTOW of 2,000-9,000 pounds and 15,000-100,000 pounds are subject to sales and use tax, but repair services for those same aircraft are currently exempt. Subsection (b) of this section makes a technical and conforming change to the labor exemption. Currently, sales tax does not apply to repair, maintenance, and installation services and service contracts for following categories: 1. A qualified aircraft. 2. A qualified jet engine. 3. An aircraft with a gross take-off weight of more than 2,000 pounds. The third category is no longer needed because it will be subsumed within the newly amended definition of "qualified aircraft."	
42.13	***Extend Sunset for Sales Tax Exemption for Aviation Gasoline and Jet Fuel for Use in Commercial Aircraft*** This section would extend from January 1, 2024, to January 1, 2028, the sunset of the sales and use tax exemption for sales of aviation gasoline and jet fuel to an interstate air business for use in a commercial aircraft. Aviation gasoline and jet fuel are subject to a 7% State sales tax rate, and the revenue generated by the tax is earmarked to the Division of Aviation, Department of Transportation.	When law.
42.14	***Expand Sales Tax Exemption for Fuel & Consumables Used by Boats Transporting Freight on Inland and Intracoastal Waterways*** Under current law, sales of fuel and other tangible personal property for use or consumption by or on oceangoing vessels that "ply the high seas" in interstate or foreign commerce in the transport of freight of passengers for hire exclusively, when delivered to an officer or agent of the vessel	For sales occurring on or after October 1, 2023.

[2] Maximum take-off weight.

	for the use of the vessel is exempt from sales and use tax. Those same items are not exempt when delivered to officers, agents, crew members, or passengers for their personal use. This section would expand the exemption to include those same items for use on vessels engaged in the transportation of freight in intrastate, interstate, or foreign commerce when in the intracoastal waterways, sounds, or rivers to qualify.	
Other Tax Changes		
42.15	***Reenact Modified Conservation Tax Credit*** This section would reenact the tax credit for certain real property donations and modify the purposes for which donated land will qualify for the credit. The credit would be available to both individuals and corporations, and the amount of the credit and the caps are the same – 25% of the fair market value of the property, capped at $250,000 for individuals and $500,000 for corporations. Prior to its repeal, this tax credit was permitted for 9[3] different land uses set out below. Under the credit as reenacted and modified by this bill, the credit would be allowed only for land donated for the following 6 purposes, 4 of which were permitted and 2 of which were not permitted under the prior credit: • Forestland or farmland preservation • Fish and wildlife conservation • As a buffer to limit land use activities that would restrict or interfere with military training, testing, or operation on a military installation or training area. • Floodplain protection • Historic landscape conservation • Public trails or access to public trails The conservation tax credit was enacted in 1983 and was repealed in 2013 as part of the Tax Simplification and Reduction Act. Prior to its repeal, a taxpayer was allowed a nonrefundable income tax credit for certain donations of real property located in North Carolina. The amount of the credit was 25% of the fair market value of the donated property interest, capped at $250,000 for individuals and $500,000 for corporations. To be eligible for the credit, the land was required to be useful for (i) public beach access or use, (ii) public access to public waters or trails, (iii) fish and wildlife conservation, (iv) forestland or farmland conservation, (v) watershed protection, (vi) conservation of natural or scenic river areas, (vii) conservation of predominantly natural parkland, or (viii) historic landscape conservation; the land must be donated in perpetuity to and	For taxable years beginning on or after January 1, 2023.

[3] Under the prior law, a credit was allowed for land donated for the following purposes, which would not be permitted uses under the credit as reenacted under this section: (1) Public beach access; (2) Public access to public waters; (3) watershed protection; (4) conservation of natural areas; (5) conservation of natural or scenic river areas; (6) natural parkland

	accepted by the State, a local government, or a body organized to receive and administer lands for conservation purposes and qualified to receive charitable contributions.	