

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**HOUSE BILL 231
Committee Substitute Favorable 8/23/01**

Short Title: Education Revenue Act.

(Public)

Sponsors:

Referred to:

February 26, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO (1) ELIMINATE THE MARRIAGE TAX PENALTY FOR THE
3 STANDARD DEDUCTION, (2) INCREASE THE TAX CREDIT FOR
4 CHILDREN FROM \$60 TO \$100 PER CHILD, (3) PROVIDE A STABLE
5 SOURCE OF REVENUE FOR LOCAL GOVERNMENTS BY AUTHORIZING A
6 LOCAL OPTION, HALF-CENT SALES TAX, (4) REPEAL THE LOCAL TAX
7 REIMBURSEMENTS PAID ANNUALLY TO LOCAL GOVERNMENTS, (5)
8 PROVIDE A HOLD HARMLESS PAYMENT FOR THOSE COUNTIES AND
9 MUNICIPALITIES WHOSE ESTIMATED GAIN FROM THE NEW SALES TAX
10 WOULD BE LESS THAN 105% OF THEIR REPEALED REIMBURSEMENT
11 AMOUNT, (6) INCREASE THE STATE SALES TAX BY ONE-HALF CENT
12 FOR THREE YEARS, (7) CREATE A STATE-EARNED INCOME TAX
13 CREDIT, (8) ADD A NEW TAX BRACKET WITH AN ADDITIONAL 1/4% ON
14 NET TAXABLE INCOME ABOVE \$200,000 FOR THREE YEARS, (9)
15 EQUALIZE TAXATION OF HEALTH MAINTENANCE ORGANIZATIONS
16 AND MEDICAL SERVICE CORPORATIONS AT 1% OF GROSS PREMIUMS,
17 (10) APPLY THE SAME SALES TAX RATE TO SPIRITUOUS LIQUOR THAT
18 APPLIES TO OTHER ALCOHOLIC BEVERAGES, (11) ELIMINATE THE
19 SPECIAL TAX BREAK FOR LUXURY VEHICLES, (12) EXEMPT
20 VOLUNTEER FIRE AND RESCUE VEHICLES FROM HIGHWAY USE TAX,
21 (13) EXEMPT CERTAIN ITEMS PURCHASED DURING A SPECIFIC PERIOD
22 FROM THE SALES AND USE TAX, AND (14) ELIMINATE OTHER TAX
23 LOOPHOLES.

24 Whereas, it is the intent of the General Assembly to avoid harmful cuts in the
25 budgets of the public schools, community colleges, and State university system; and

26 Whereas, it is the intent of the General Assembly to provide funds to
27 accommodate enrollment growth and other continuing needs; and

1 Whereas, it is the intent of the General Assembly to pursue education
2 initiatives that will build on the achievements of the State's educational system, such as
3 reductions in class size in elementary schools; and

4 Whereas, it is the intent of the General Assembly to use revenues resulting
5 from this act to avoid the harmful cuts in these budgets and to fund these public needs;

6 Now, therefore,

7 The General Assembly of North Carolina enacts:

8 **TABLE OF CONTENTS**

9 **PART 1. ELIMINATE THE MARRIAGE TAX PENALTY FOR THE**
10 **STANDARD DEDUCTION**

11 **PART 2. INCREASE TAX CREDIT FOR CHILDREN**

12 **PART 3. LOCAL OPTION SALES TAX/HOLD HARMLESS**

13 **PART 4. LOCAL GOVERNMENT REIMBURSEMENTS**

14 **PART 5. INCREASE STATE SALES TAX FOR THREE YEARS**

15 **PART 6. CREATE STATE-EARNED INCOME TAX CREDIT**

16 **PART 7. NEW TAX BRACKET FOR INCOME OVER \$200,000**

17 **PART 8. EQUALIZE TAXATION OF HMOs AND MEDICAL SERVICE**
18 **COMPANIES**

19 **PART 9. SPIRITUOUS LIQUOR SALES TAX**

20 **PART 10. NO TAX BREAK FOR LUXURY CARS/NO FIRE & RESCUE**
21 **VEHICLE TAX**

22 **PART 11. SALES TAX HOLIDAY**

23 **PART 12. EFFECTIVE DATE**

24
25 **PART 1. ELIMINATE THE MARRIAGE TAX PENALTY FOR THE**
26 **STANDARD DEDUCTION**

27 **SECTION 1.(a)** Effective for taxable years beginning on or after January 1,
28 2002, G.S. 105-134.6(c)(3) and (4) reads as rewritten:

29 "(c) Additions. – The following additions to taxable income shall be made in
30 calculating North Carolina taxable income, to the extent each item is not included in
31 taxable income:

32 . . .

33 (3) Any amount deducted from gross income under section 164 of the
34 Code as state, local, or foreign income tax to the extent that the
35 taxpayer's total itemized deductions deducted under the Code for the
36 taxable year exceed the standard deduction allowable to the taxpayer
37 under the Code reduced by the amount ~~by which the taxpayer's~~
38 ~~allowable standard deduction has been increased under section~~
39 ~~63(c)(4) of the Code.~~ the taxpayer is required to add to taxable income
40 under subdivision (4) of this subsection.

41 (4) The amount by which the taxpayer's additional standard deduction for
42 aged and blind has been increased for inflation under section
43 63(c)(4)(A) of the ~~Code.~~ Code plus the amount by which the taxpayer's

1 basic standard deduction, including adjustments for inflation, under the
 2 Code exceeds the appropriate amount in the following chart based on
 3 the taxpayer's filing status:

<u>Filing Status</u>	<u>Standard Deduction</u>
Married filing jointly/Surviving Spouse	\$5,500
Head of Household	4,400
Single	3,000
Married filing separately	2,750".

10 **SECTION 1.(b)** Effective for taxable years beginning on or after January 1,
 11 2003, G.S. 105-134.6(c)(4), as amended by this section, reads as rewritten:

12 "(c) Additions. – The following additions to taxable income shall be made in
 13 calculating North Carolina taxable income, to the extent each item is not included in
 14 taxable income:

15 . . .

16 (4) The amount by which the taxpayer's additional standard deduction for
 17 aged and blind has been increased for inflation under section
 18 63(c)(4)(A) of the Code plus the amount by which the taxpayer's basic
 19 standard deduction, including adjustments for inflation, under the
 20 Code exceeds the appropriate amount in the following chart based on
 21 the taxpayer's filing status:

<u>Filing Status</u>	<u>Standard Deduction</u>
Married filing jointly/Surviving Spouse	\$5,500 \$6,000
Head of Household	4,400
Single	3,000
Married filing separately	2,750 3,000".

29 **PART 2. INCREASE TAX CREDIT FOR CHILDREN**

30 **SECTION 2.(a)** Effective for taxable years beginning on or after January 1,
 31 2002, G.S. 105-151.24 reads as rewritten:

32 "**§ 105-151.24. Credit for children.**

33 An individual whose adjusted gross income (AGI), as calculated under the Code, is
 34 less than the amount listed below is allowed a credit against the tax imposed by this Part
 35 in an amount equal to ~~sixty dollars (\$60.00)~~seventy-five dollars (\$75.00) for each
 36 dependent child for whom the individual was allowed to deduct a personal exemption
 37 under section 151(c)(1)(B) of the Code for the taxable year:

<u>Filing Status</u>	<u>AGI</u>
Married, filing jointly	\$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000.

1 A nonresident or part-year resident who claims the credit allowed by this section
 2 shall reduce the amount of the credit by multiplying it by the fraction calculated under
 3 G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not
 4 exceed the amount of tax imposed by this Part for the taxable year reduced by the sum
 5 of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

6 **SECTION 2.(b)** Effective for taxable years beginning on or after January 1,
 7 2003, G.S. 105-151.24, as amended by this section, reads as rewritten:

8 "**§ 105-151.24. Credit for children.**

9 An individual whose adjusted gross income (AGI), as calculated under the Code, is
 10 less than the amount listed below is allowed a credit against the tax imposed by this Part
 11 in an amount equal to ~~seventy-five dollars (\$75.00)~~ one hundred dollars (\$100.00) for
 12 each dependent child for whom the individual was allowed to deduct a personal
 13 exemption under section 151(c)(1)(B) of the Code for the taxable year:

<u>Filing Status</u>	<u>AGI</u>
14 Married, filing jointly	\$100,000
15 Head of Household	80,000
16 Single	60,000
17 Married, filing separately	50,000.

18 A nonresident or part-year resident who claims the credit allowed by this section
 19 shall reduce the amount of the credit by multiplying it by the fraction calculated under
 20 G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not
 21 exceed the amount of tax imposed by this Part for the taxable year reduced by the sum
 22 of all credits allowed, except payments of tax made by or on behalf of the taxpayer."
 23
 24

25 **PART 3. LOCAL OPTION SALES TAX/HOLD HARMLESS**

26 **SECTION 3.(a)** Subchapter VIII of Chapter 105 of the General Statutes is
 27 amended by adding a new Article to read:

28 "Article 44.

29 "Third One-Half Cent (1/2¢) Local Government Sales and Use Tax.

30 "**§ 105-515. Short title.**

31 This Article is the Third One-Half Cent (1/2¢) Local Government Sales and Use Tax
 32 Act.

33 "**§ 105-516. Limitations.**

34 This Article applies only to counties that levy the first one-cent (1¢) sales and use
 35 tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws,
 36 the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and
 37 the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

38 "**§ 105-517. Levy.**

39 (a) After Vote. – If a majority of those voting in a special election held pursuant
 40 to this Article vote for the levy of the taxes in a county, the board of commissioners of a
 41 county may, by resolution, levy one-half percent (1/2%) local sales and use taxes in
 42 addition to any other State and local sales and use taxes levied pursuant to law.

1 (b) Without Vote. – If the question of whether to levy taxes under this Article has
2 not been defeated in a special election held in the county within two years, the board of
3 commissioners of a county may, by resolution, levy one-half percent (½%) local sales
4 and use taxes in addition to any other State and local sales and use taxes levied pursuant
5 to law. Before adopting a resolution under this subsection, the board of commissioners
6 must give at least 10 days' public notice of its intent to adopt the resolution and must
7 hold a public hearing on the issue of adopting the resolution.

8 **"§ 105-518. County election on adoption of tax.**

9 (a) Resolution. – The board of commissioners of a county may direct the county
10 board of elections to conduct a special election on the question of whether to levy local
11 one-half percent (½%) sales and use taxes in the county as provided in this Article. The
12 election must be held on a date jointly agreed upon by the two boards and must be held
13 in accordance with the procedures of G.S. 163-287, subject to the following exceptions:

14 (1) Legal notice of the special election may be published less than 45
15 days, but no less than 30 days, before the election.

16 (2) The notice requirements of G.S. 163-33(8) do not apply.

17 (b) Ballot Question. – The question to be presented on a ballot for a special
18 election concerning the levy of the taxes authorized by this Article must be in the
19 following form:

20 FOR AGAINST

21 one-half percent (½%) local sales and use taxes, in addition to the current local sales
22 and use taxes.'

23 **"§ 105-519. Administration of taxes.**

24 Except as provided in this Article, the adoption, levy, collection, administration, and
25 repeal of these additional taxes must be in accordance with Article 39 of this Chapter. A
26 tax levied under this Article does not apply to the sales price of food that is exempt from
27 tax pursuant to G.S. 105-164.13B.

28 **"§ 105-520. Distribution of taxes.**

29 (a) Point of Origin. – The Secretary must, on a quarterly basis, allocate to each
30 taxing county one-half of the net proceeds of the tax collected in that county under this
31 Article. If the Secretary collects taxes under this Article in a month and the taxes cannot
32 be identified as being attributable to a particular taxing county, the Secretary must
33 allocate one-half of the net proceeds of these taxes among the taxing counties in
34 proportion to the amount of taxes collected in each county under this Article in that
35 month.

36 (b) Per Capita. – The Secretary must, on a quarterly basis, allocate the remaining
37 net proceeds of the tax collected under this Article among the taxing counties on a per
38 capita basis according to the most recent annual population estimates certified to the
39 Secretary by the State Budget Officer. The Secretary must then adjust the amount
40 allocated to each county as provided in G.S. 105-486(b). If any taxes levied under this
41 Article by a county have not been collected in that county for a full quarter because of
42 the levy or repeal of the taxes, the Secretary must allocate a pro rata share to that county

1 for that quarter based on the number of months the taxes were collected in that county
2 during the quarter.

3 (c) Distribution Between Counties and Cities. – The Secretary must divide and
4 distribute the funds allocated under this section each quarter between each taxing county
5 and the municipalities located in the county in accordance with the method by which the
6 one percent (1%) sales and use taxes levied in that county pursuant to Article 39 of this
7 Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No municipality may
8 receive any funds under this subsection for a quarter if it is not entitled to a distribution
9 under G.S. 105-501 for the same quarter.

10 **"§ 105-521. Transitional local government hold harmless.**

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

12 (1) Local government. – A county or municipality that received a
13 distribution of local sales taxes in the most recent fiscal year for which
14 a local sales tax share has been calculated.

15 (2) Local sales tax share. – A local government's percentage share of the
16 two-cent (2¢) sales taxes distributed during the most recent fiscal year
17 for which data are available.

18 (3) Repealed reimbursement amount. – The total amount a local
19 government would have been entitled to receive during the 2000-2001
20 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2,
21 105-277.001, and 105-277.1A, if the Governor had not withheld any
22 distributions under those sections.

23 (4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax
24 authorized in Article 39 of this Chapter and in Chapter 1096 of the
25 1967 Session Laws, the first one-half cent (½¢) local sales and use tax
26 authorized in Article 40 of this Chapter, and the second one-half cent
27 (½¢) local sales and use tax authorized in Article 42 of this Chapter.

28 (b) 2001-2002 Distribution. – On or before December 15, 2001, the Secretary
29 must multiply each local government's local sales tax share by the sum of one hundred
30 ninety-eight million four hundred thousand dollars (\$198,400,000). If the resulting
31 amount is less than one hundred five percent (105%) of the local government's repealed
32 reimbursement amount, the Secretary must pay the local government the difference, but
33 not less than one hundred dollars (\$100.00).

34 (c) 2002-2003 Distribution. – On or before September 15, 2002, the Secretary
35 must multiply each local government's local sales tax share by the sum of three hundred
36 ninety-eight million six hundred sixty-nine thousand dollars (\$398,669,000). If the
37 resulting amount is less than one hundred five percent (105%) of the local government's
38 repealed reimbursement amount, the Secretary must pay the local government the
39 difference, but not less than one hundred dollars (\$100.00).

40 (d) Subsequent Distributions. – On or before September 15, 2003, and each year
41 thereafter, the Secretary must multiply each local government's local sales tax share by
42 the estimated amount that all local governments would be expected to receive during the
43 current fiscal year under G.S. 105-520 if every county levied the tax under this Article

1 for the year. If the resulting amount is less than one hundred five percent (105%) of the
2 local government's repealed reimbursement amount, the Secretary must pay the local
3 government the difference, but not less than one hundred dollars (\$100.00).

4 Beginning May 1, 2003, and each year thereafter, the Office of State Budget and
5 Management and the Fiscal Research Division of the General Assembly must each
6 submit to the Secretary and to the General Assembly a final projection of the estimated
7 amount that all local governments would be expected to receive during the upcoming
8 fiscal year under G.S. 105-520 if every county levied the tax under this Article for the
9 fiscal year. The Secretary must use the lower of the two final projections to make the
10 calculation required by this subsection.

11 (e) Source of Funds. – The Secretary must draw the funds distributed under this
12 section from sales and use tax collections under Article 5 of this Chapter.

13 (f) Reports. – The Secretary must report to the Revenue Laws Study Committee
14 by January 31 of each year the amount distributed under this section for the current
15 fiscal year."

16 **SECTION 3.(b)** Notwithstanding the provisions of G.S. 105-466(c), a tax
17 levied during the 2001 calendar year under Article 44 of Chapter 105 of the General
18 Statutes, as enacted by this act, may become effective on the first day of any calendar
19 month but may not become effective before December 1, 2001. Notwithstanding the
20 provisions of G.S. 105-466(c), if a county levies a tax during the 2001 calendar year
21 under Article 44 of Chapter 105 of the General Statutes, as enacted by this act, the
22 county is required to give the Secretary of Revenue only 30 days' advance notice of the
23 tax levy. For taxes levied on or after January 1, 2002, the provisions of G.S. 105-466(c)
24 apply.

25 **SECTION 3.(c)** A tax levied under Article 44 of Chapter 105 of the General
26 Statutes, as enacted by this act, does not apply to construction materials purchased to
27 fulfill a lump-sum or unit-price contract entered into or awarded before the effective
28 date of the levy or entered into or awarded pursuant to a bid made before the effective
29 date of the levy when the construction materials would otherwise be subject to the tax
30 levied under Article 44 of Chapter 105 of the General Statutes.

31 **SECTION 3.(d)** This section is effective when it becomes law.
32

33 **PART 4. LOCAL GOVERNMENT REIMBURSEMENTS**

34 **SECTION 4.(a)** The following sections of the General Statutes are repealed:

- 35 (1) G.S. 105-164.44C. Reimbursement for sales taxes on food stamp foods
36 and supplemental foods.
- 37 (2) G.S. 105-275.1. Reimbursement for exclusion of manufacturers'
38 inventories and poultry and livestock.
- 39 (3) G.S. 105-275.2. Reimbursement to counties and municipalities for
40 repeal of State tax on intangible personal property.
- 41 (4) G.S. 105-277.001. Reimbursement for exclusion of retailers' and
42 wholesalers' inventories.

1 (5) G.S. 105-277.1A. Property classified for taxation at reduced valuation;
2 duties of tax collectors; reimbursement of localities for portion of tax
3 lost.

4 **SECTION 4.(b)** This section is effective on and after July 1, 2001.
5

6 **PART 5. INCREASE STATE SALES TAX FOR THREE YEARS**

7 **SECTION 5.(a)** G.S. 105-164.4(a) reads as rewritten:

8 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
9 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
10 ~~four percent (4%).~~ four and one-half percent (4.5%)."

11 **SECTION 5.(b)** The increase in tax levied under this section does not apply
12 to construction materials purchased to fulfill a lump-sum or unit-price contract entered
13 into or awarded before the effective date of the levy or entered into or awarded pursuant
14 to a bid made before the effective date of the levy when the construction materials
15 would otherwise be subject to the tax levied under this section.

16 **SECTION 5.(c)** This section becomes effective December 1, 2001, and
17 applies to sales made on or after that date.

18 **SECTION 5.(d)** This section expires on October 1, 2004. The expiration of
19 this tax increase does not affect the rights or liabilities of the State, a taxpayer, or
20 another person arising under this section before the effective date of its expiration; nor
21 does it affect the right to any refund or credit of a tax that accrued under this section
22 before the effective date of its expiration.
23

24 **PART 6. CREATE STATE-EARNED INCOME TAX CREDIT**

25 **SECTION 6.(a)** Part 2 of Article 4 of Chapter 105 of the General Statutes is
26 amended by adding a new section to read:

27 "**§ 105-151.29. Earned income tax credit.**

28 (a) Credit. – An individual who claims for the taxable year an earned income tax
29 credit under section 32 of the Code is allowed a credit against the tax imposed by this
30 Part equal to ten percent (10%) of the amount of credit the individual qualified for under
31 section 32 of the Code. A nonresident or part-year resident who claims the credit
32 allowed by this section must reduce the amount of the credit by multiplying it by the
33 fraction calculated under G.S. 105-134.5(b) or (c), as appropriate.

34 (b) Credit Refundable. – If the credit allowed by this section exceeds the amount
35 of tax imposed by this Part for the taxable year reduced by the sum of all credits
36 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
37 is governed by the provisions governing a refund of an overpayment by the taxpayer of
38 the tax imposed in this Part. Section 3507 of the Code, Advance Payment of Earned
39 Income Credit, does not apply to the credit allowed by this section. In computing the
40 amount of tax against which multiple credits are allowed, nonrefundable credits are
41 subtracted before refundable credits."

42 **SECTION 6.(b)** It is the intent of the General Assembly that the Department
43 of Revenue make diligent efforts to notify taxpayers eligible for the State-earned

1 income tax credit and provide information to the eligible taxpayers on how to obtain the
2 credit.

3 **SECTION 6.(c)** Subsection (a) of this section is effective for taxable years
4 beginning on or after January 1, 2002. The remainder of this section is effective when it
5 becomes law.

6

7 **PART 7. NEW TAX BRACKET FOR INCOME OVER \$200,000**

8 **SECTION 7.(a)** G.S. 105-134.2(a) reads as rewritten:

9 "(a) A tax is imposed upon the North Carolina taxable income of every individual.
10 The tax shall be levied, collected, and paid annually and shall be computed at the
11 following percentages of the taxpayer's North Carolina taxable income.

12 (1) For married individuals who file a joint return under G.S. 105-152 and
13 for surviving spouses, as defined in section 2(a) of the Code:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>-0-</u>	<u>\$21,250</u>	<u>6%</u>
<u>\$21,250</u>	<u>\$100,000</u>	<u>7%</u>
<u>\$100,000</u>	<u>\$200,000</u>	<u>7.75%</u>
<u>\$200,000</u>	<u>NA</u>	<u>8%</u>

19 ~~On the North Carolina taxable income up to twenty one thousand two~~
20 ~~hundred fifty dollars (\$21,250), six percent (6%).~~

21 ~~On the amount over twenty one thousand two hundred fifty dollars~~
22 ~~(\$21,250) and up to one hundred thousand dollars (\$100,000), seven~~
23 ~~percent (7%).~~

24 ~~On the amount over one hundred thousand dollars (\$100,000), seven~~
25 ~~and seventy five one hundredths percent (7.75%).~~

26 (2) For heads of households, as defined in section 2(b) of the Code:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>-0-</u>	<u>\$17,000</u>	<u>6%</u>
<u>\$17,000</u>	<u>\$80,000</u>	<u>7%</u>
<u>\$80,000</u>	<u>\$160,000</u>	<u>7.75%</u>
<u>\$160,000</u>	<u>NA</u>	<u>8%</u>

32 ~~On the North Carolina taxable income up to seventeen thousand~~
33 ~~dollars (\$17,000), six percent (6%).~~

34 ~~On the amount over seventeen thousand dollars (\$17,000) and up to~~
35 ~~eighty thousand dollars (\$80,000), seven percent (7%).~~

36 ~~On the amount over eighty thousand dollars (\$80,000), seven and~~
37 ~~seventy five one hundredths percent (7.75%).~~

38 (3) For unmarried individuals other than surviving spouses and heads of
39 households:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>-0-</u>	<u>\$12,750</u>	<u>6%</u>
<u>\$12,750</u>	<u>\$60,000</u>	<u>7%</u>
<u>\$60,000</u>	<u>\$120,000</u>	<u>7.75%</u>

43

1 \$120,000 NA 8%
 2 ~~On the North Carolina taxable income up to twelve thousand seven~~
 3 ~~hundred fifty dollars (\$12,750), six percent (6%).~~
 4 ~~On the amount over twelve thousand seven hundred fifty dollars~~
 5 ~~(\$12,750) and up to sixty thousand dollars (\$60,000), seven percent~~
 6 ~~(7%).~~
 7 ~~On the amount over sixty thousand dollars (\$60,000), seven and~~
 8 ~~seventy five one hundredths percent (7.75%).~~

9 (4) For married individuals who do not file a joint return under G.S.
 10 105-152:

<u>Over</u>	<u>Up To</u>	<u>Rate</u>
<u>-0-</u>	<u>\$10,625</u>	<u>6%</u>
<u>\$10,625</u>	<u>\$50,000</u>	<u>7%</u>
<u>\$50,000</u>	<u>\$100,000</u>	<u>7.75%</u>
<u>\$100,000</u>	<u>NA</u>	<u>8%</u>

16 ~~On the North Carolina taxable income up to ten thousand six hundred~~
 17 ~~twenty five dollars (\$10,625), six percent (6%).~~
 18 ~~On the amount over ten thousand six hundred twenty five dollars~~
 19 ~~(\$10,625) and up to fifty thousand dollars (\$50,000), seven percent~~
 20 ~~(7%).~~
 21 ~~On the amount over fifty thousand dollars (\$50,000), seven and~~
 22 ~~seventy five one hundredths percent (7.75%)."~~

23 **SECTION 7.(b)** This section becomes effective for taxable years beginning
 24 on or after January 1, 2001, and expires for taxable years beginning on or after January
 25 1, 2004. Notwithstanding G.S. 105-163.15, no addition to tax may be made under that
 26 statute for a taxable year beginning on or after January 1, 2001, and before January 1,
 27 2002, with respect to an underpayment of individual income tax to the extent the
 28 underpayment was created or increased by this section.

30 **PART 8. EQUALIZE TAXATION OF HMOs AND MEDICAL SERVICE**
 31 **COMPANIES**

32 **SECTION 8.(a)** G.S. 105-228.5 reads as rewritten:

33 **"§ 105-228.5. Taxes measured by gross premiums.**

34 (a) Tax Levied. – A tax is levied in this section on insurers, Article 65
 35 corporations, health maintenance organizations, and self-insurers. An ~~insurer-insurer,~~
 36 health maintenance organization, or Article 65 corporation that is subject to the tax
 37 levied by this section is not subject to franchise or income taxes imposed by Articles 3
 38 and 4, respectively, of this Chapter.

39 (b) Tax Base. –

40 (1) Insurers. – The tax imposed by this section on an insurer or a health
 41 maintenance organization shall be measured by gross premiums from
 42 business done in this State during the preceding calendar year.

1 (2) Additional Local Fire and Lightning Rate. – The additional tax
2 imposed by subdivision (d)(4) of this section shall be measured by
3 gross premiums from business done in fire districts in this State during
4 the preceding calendar year. For the purpose of this section, the term
5 "fire district" has the meaning provided in G.S. 58-84-5.

6 (3) Article 65 Corporations. – The tax imposed by this section on an
7 Article 65 corporation shall be measured by gross collections from
8 membership dues, exclusive of receipts from cost plus plans, received
9 by the corporation during the preceding calendar year.

10 (4) Self-insurers. – The tax imposed by this section on a self-insurer shall
11 be measured by the gross premiums that would be charged against the
12 same or most similar industry or business, taken from the manual
13 insurance rate then in force in this State, applied to the self-insurer's
14 payroll for the previous calendar year as determined under Article 2 of
15 Chapter 97 of the General Statutes modified by the self-insurer's
16 approved experience modifier.

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

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

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

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

41 Gross premiums from business done in this State for all other health care plans and
42 contracts of insurance, including contracts of insurance required to be carried by the
43 Workers' Compensation Act, means all premiums written during the calendar year, or

1 the equivalent thereof in the case of self-insurers under the Workers' Compensation Act,
2 for contracts covering property or risks in this State, other than for contracts of
3 reinsurance, whether the premiums are designated as premiums, deposits, premium
4 deposits, policy fees, membership fees, or assessments. Gross premiums shall be
5 deemed to have been written for the amounts as provided in the policy contracts, new
6 and renewal, becoming effective during the year irrespective of the time or method of
7 making payment or settlement for the premiums, and with no deduction for dividends
8 whether returned in cash or allowed in payment or reduction of premiums or for
9 additional insurance, and without any other deduction except for return of premiums,
10 deposits, fees, or assessments for adjustment of policy rates or for cancellation or
11 surrender of policies.

12 (c) Exclusions. – Every insurer, in computing the premium tax, shall exclude all
13 of the following from the gross amount of ~~premiums: premiums, and the gross amount~~
14 of excluded premiums is exempt from the tax imposed by this section:

- 15 (1) All premiums received on or after July 1, 1973, from policies or
16 contracts issued in connection with the funding of a pension, annuity,
17 or profit-sharing plan qualified or exempt under section 401, 403, 404,
18 408, 457 or 501 of the Code as defined in G.S. 105-228.90.
- 19 (2) Premiums or considerations received from annuities, as defined in G.S.
20 58-7-15.
- 21 (3) Funds or considerations received in connection with funding
22 agreements, as defined in G.S. 58-7-16.
- 23 (4) The following premiums, to the extent federal law prohibits their
24 taxation under this Article:
 - 25 a. Federal Employees Health Benefits Plan premiums.
 - 26 b. Medicaid or Medicare premiums.

27 ~~The gross amount of the excluded premiums, funds, and considerations shall be~~
28 ~~exempt from the tax imposed by this section.~~

29 (d) Tax Rates; Disposition. –

- 30 (1) ~~Workers'~~ Workers' Compensation. – The tax rate to be applied to gross
31 premiums, or the equivalent thereof in the case of self-insurers, on
32 contracts applicable to liabilities under the Workers' Compensation
33 Act ~~shall be~~ is two and five-tenths percent (2.5%). The net proceeds
34 shall be credited to the General Fund.
- 35 (2) Other Insurance Contracts. – The tax rate to be applied to gross
36 premiums on all other ~~insurance~~ taxable contracts issued by insurers
37 ~~shall be~~ is one and nine-tenths percent (1.9%). The net proceeds shall
38 be credited to the General Fund.
- 39 (3) Additional Statewide Fire and Lightning Rate. – An additional tax
40 shall be applied to gross premiums on contracts of insurance
41 applicable to fire and lightning coverage, except in the case of marine
42 and automobile policies, at the rate of one and thirty-three hundredths
43 percent (1.33%). Twenty-five percent (25%) of the net proceeds of this

1 additional tax shall be deposited in the Volunteer Fire Department
2 Fund established in Article 87 of Chapter 58 of the General Statutes.
3 The remaining net proceeds shall be credited to the General Fund.

4 (4) Additional Local Fire and Lightning Rate. – An additional tax shall be
5 applied to gross premiums on contracts of insurance applicable to fire
6 and lightning coverage within fire districts at the rate of one-half of
7 one percent (1/2 of 1%). The net proceeds shall be credited to the
8 Department of Insurance for disbursement pursuant to G.S. 58-84-25.

9 (5) Article 65 Corporations. – The tax rate to be applied to gross
10 premiums and/or gross collections from membership dues, exclusive
11 of receipts from cost plus plans, received by Article 65 corporations
12 ~~shall be one-half of one percent (1/2 of 1%).~~ is one percent (1%). The
13 net proceeds shall be credited to the General Fund.

14 (6) Health Maintenance Organizations. – The tax rate to be applied to
15 gross premiums on insurance contracts issued by health maintenance
16 organizations is one percent (1%). The net proceeds shall be credited
17 to the General Fund.

18 (e) Report and Payment. – ~~Each insurer, Article 65 corporation, and self-insurer~~
19 taxpayer doing business in this State shall, within the first 15 days of March, file with
20 the Secretary of Revenue a full and accurate report of the total gross premiums as
21 defined in this section, the payroll and other information required by the Secretary in the
22 case of a self-insurer, or the total gross collections from membership dues exclusive of
23 receipts from cost plus plans collected in this State during the preceding calendar year.
24 The report shall be verified by the oath of the official or other representative responsible
25 for transmitting it; the taxes imposed by this section shall be remitted to the Secretary
26 with the report.

27 In the case of an insurer liable for the additional local fire and lightning tax, the
28 report shall include the information required under G.S. 58-84-1.

29 (f) Installment Payments Required. – ~~Insurers, Article 65 corporations, and self-~~
30 ~~insurers~~ Taxpayers that are subject to the tax imposed by this section and have a
31 premium tax liability, not including the additional local fire and lightning tax, of ten
32 thousand dollars (\$10,000) or more for business done in North Carolina during the
33 immediately preceding year shall remit three equal quarterly installments with each
34 installment equal to at least thirty-three and one-third percent (33 1/3%) of the premium
35 tax liability incurred in the immediately preceding taxable year. The quarterly
36 installment payments shall be made on or before April 15, June 15, and October 15 of
37 each taxable year. The company shall remit the balance by the following March 15 in
38 the same manner provided in this section for annual returns.

39 The Secretary of Revenue may permit an insurance company to pay less than the
40 required estimated payment when the insurer reasonably believes that the total
41 estimated payments made for the current year will exceed the total anticipated tax
42 liability for the year.

1 An underpayment of an installment payment required by this subsection shall bear
2 interest at the rate established under G.S. 105-241.1(i). Any overpayment shall bear
3 interest as provided in G.S. 105-266(b) and, together with the interest, shall be credited
4 to the company and applied against the taxes imposed upon the company under this
5 Article.

6 (g) Exemptions. – This section does not apply to farmers' mutual assessment fire
7 insurance companies or to fraternal orders or societies that do not operate for a profit
8 and do not issue policies on any person except members."

9 **SECTION 8.(b)** G.S. 58-6-25(a) reads as rewritten:

10 "(a) Charge Levied. – There is levied on each insurance company an annual
11 charge for the purposes stated in subsection (d) of this section. The charge levied in this
12 section is in addition to all other fees and taxes. The percentage rate of the charge is
13 established pursuant to subsection (b) of this section. For each insurance company that
14 is not an Article 65 corporation nor a health maintenance organization, the rate is
15 applied to the company's premium tax liability for the taxable year. For Article 65
16 corporations and health maintenance organizations, the rate is applied to a ~~presumed~~
17 premium tax liability for the taxable year calculated as if the corporation or organization
18 were ~~an insurer providing health insurance. paying tax at the rate in G.S.~~
19 105-228.5(d)(2). In determining an insurance company's premium tax liability for a
20 taxable year, the following shall be disregarded:

21 (1) Additional taxes imposed by G.S. 105-228.8.

22 (2) The additional local fire and lightning tax imposed by G.S.
23 105-228.5(d)(4).

24 (3) Any tax credits for guaranty or solvency fund assessments under G.S.
25 105-228.5A or G.S. 97-133(a).

26 (4) Any tax credits allowed under Chapter 105 of the General Statutes
27 other than tax payments made by or on behalf of the taxpayer."

28 **SECTION 8.(c)** G.S. 58-6-25(e) reads as rewritten:

29 "(e) Definitions. – The following definitions apply in this section:

30 (1) Article 65 corporation. – Defined in G.S. 105-228.3.

31 (2) Insurance company. – A company that pays the gross premiums tax
32 levied in G.S. 105-228.5 and G.S. ~~105-228.8~~ or a health maintenance
33 organization-105-228.8.

34 (3) Insurer. – Defined in G.S. 105-228.3."

35 **SECTION 8.(d)** This section is effective for taxable years beginning on or
36 after January 1, 2002.

38 PART 9. SPIRITUOUS LIQUOR SALES TAX

39 **SECTION 9.(a)** G.S. 105-164.13(37) is repealed.

40 **SECTION 9.(b)** G.S. 105-164.4(a) is amended by adding a new subdivision
41 to read:

42 "(6) The rate of six percent (6%) applies to the sales price of spirituous
43 liquor other than mixed beverages. As used in this subdivision, the

1 terms 'spirituous liquor' and 'mixed beverage' have the meanings
2 provided in G.S. 18B-101."

3 **SECTION 9.(c)** G.S. 105-113.80(c) reads as rewritten:

4 "(c) Liquor. – An excise tax of twenty-eight percent (28%) is levied on liquor sold
5 in ABC stores. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is
6 computed is the distiller's price plus (i) the State ABC warehouse freight and bailment
7 charges, and (ii) a markup for local ABC boards. ~~This tax is in lieu of sales and use~~
8 ~~taxes; accordingly, liquor is exempt from those taxes as provided in G.S.~~
9 ~~105-164.13(37).~~"

10 **SECTION 9.(d)** This section becomes effective October 1, 2001, and
11 applies to sales made on or after that date.

12
13 **PART 10. NO TAX BREAK FOR LUXURY CARS/NO FIRE & RESCUE**
14 **VEHICLE TAX**

15 **SECTION 10.(a)** G.S. 105-187.3(a) reads as rewritten:

16 "(a) Amount. – The rate of the use tax imposed by this Article is three percent
17 (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The
18 tax is payable as provided in G.S. 105-187.4. The tax may not be more than one
19 thousand dollars (\$1,000) for each certificate of title issued for a Class A or Class B
20 motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. ~~The tax~~
21 ~~may not be more than one thousand five hundred dollars (\$1,500) for each certificate of~~
22 ~~title issued for any other motor vehicle.~~"

23 **SECTION 10.(b)** G.S. 105-187.5(b) reads as rewritten:

24 "(b) Rate. – The tax rate on the gross receipts from the short-term lease or rental
25 of a motor vehicle is eight percent (8%) and the tax rate on the gross receipts from the
26 long-term lease or rental of a motor vehicle is three percent (3%). Gross receipts does
27 not include the amount of any allowance given for a motor vehicle taken in trade as a
28 partial payment on the lease or rental price. The maximum tax in G.S. 105-187.3(a) on
29 certain commercial motor vehicles applies to a continuous lease or rental of such a
30 motor vehicle to the same person."

31 **SECTION 10.(c)** G.S. 105-187.9 reads as rewritten:

32 "**§ 105-187.9. Disposition of tax proceeds.**

33 (a) Taxes collected under this Article at the rate of eight percent (8%) shall be
34 credited to the General Fund. Taxes collected under this Article at the rate of three
35 percent (3%) shall be credited to the North Carolina Highway Trust Fund.

36 (b) In each fiscal year the State Treasurer shall transfer the ~~sum of one hundred~~
37 ~~seventy million dollars (\$170,000,000) of amounts provided below from~~ the taxes
38 deposited in the Trust Fund to the General Fund. The transfer of funds authorized by
39 this section may be made by transferring one-fourth of the amount at the end of each
40 quarter in the fiscal year or by transferring the full amount annually on July 1 of each
41 fiscal year, subject to the availability of revenue.

42 (1) The sum of one hundred seventy million dollars (\$170,000,000).

1 (2) In the 2001-2002 fiscal year, the sum of one million seven hundred
2 thousand dollars (\$1,700,000). In the 2002-2003 fiscal year, the sum of
3 two million four hundred thousand dollars (\$2,400,000). In each fiscal
4 year thereafter, the sum transferred under this subdivision in the
5 previous fiscal year plus or minus a percentage of this sum equal to the
6 percentage by which tax collections under this Article increased or
7 decreased for the most recent 12-month period for which data are
8 available."

9 **SECTION 10.(d)** G.S. 105-187.6(a) reads as rewritten:

10 "(a) Full Exemptions. – The tax imposed by this Article does not apply when a
11 certificate of title is issued as the result of a transfer of a motor vehicle:

- 12 (1) To the insurer of the motor vehicle under G.S. 20-109.1 because the
13 vehicle is a salvage vehicle.
- 14 (2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle
15 retailer for the purpose of resale.
- 16 (3) To the same owner to reflect a change or correction in the owner's
17 name.
- 18 (4) By will or intestacy.
- 19 (5) By a gift between a husband and wife, a parent and child, or a
20 stepparent and a stepchild.
- 21 (6) By a distribution of marital or divisible property incident to a marital
22 separation or divorce.
- 23 (7) To a handicapped person from the Department of Health and Human
24 Services after the vehicle has been equipped by the Department for use
25 by the handicapped.
- 26 (8) To a local board of education for use in the driver education program
27 of a public school when the motor vehicle is transferred:
- 28 a. By a retailer and is to be transferred back to the retailer within
29 300 days after the transfer to the local board.
- 30 b. By a local board of education.
- 31 (9) To a volunteer fire department or volunteer rescue squad that is not
32 part of a unit of local government, has no more than two paid
33 employees, and is exempt from State income tax under G.S.
34 105-130.11, when the motor vehicle is one of the following:
- 35 a. A fire truck, a pump truck, a tanker truck, or a ladder truck used
36 to suppress fire.
- 37 b. A four-wheel drive vehicle intended to be mounted with a water
38 tank and hose and used for forest fire fighting.
- 39 c. An emergency services vehicle."

40 **SECTION 10.(e)** G.S. 105-187.1 reads as rewritten:

41 "**§ 105-187.1. Definitions.**

42 The following definitions and the definitions in G.S. 105-164.3 apply to this Article:

- 1 (1) ~~"Commissioner" means the~~ Commissioner. – The Commissioner of
2 Motor Vehicles.
- 3 (2) ~~"Division" means the~~ Division. – The Division of Motor Vehicles,
4 Department of Transportation.
- 5 (3) ~~"Long-term lease or rental" means a~~ Long-term lease or rental. – A
6 lease or rental made under a written agreement to lease or rent
7 property to the same person for a period of at least 365 continuous
8 days.
- 9 (3a) Rescue squad. – An organization that provides rescue services,
10 emergency medical services, or both.
- 11 ~~(3a)(3b)~~ Retailer. – A retailer as defined in G.S. 105-164.3 who is engaged
12 in the business of selling, leasing, or renting motor vehicles.
- 13 (4) ~~"Short-term lease or rental" means a~~ Short-term lease or rental. – A
14 lease or rental that is not a long-term lease or rental."

15 **SECTION 10.(f)** Subsection (c) of this section is effective on and after July
16 1, 2001. The remainder of this section becomes effective October 1, 2001, and applies
17 to certificates of title issued on or after that date.
18

19 PART 11. SALES TAX HOLIDAY

20 **SECTION 11.(a)** Part 3 of Article 5 of Chapter 105 of the General Statutes
21 is amended by adding a new section to read:

22 **"§ 105-164.13C. Sales and use tax holiday.**

23 (a) The taxes imposed by this Article do not apply to the following items of
24 tangible personal property if sold between 12:01A.M. on the first Friday of August and
25 11:59 P.M. the following Sunday:

- 26 (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per
27 item.
- 28 (2) Clothing accessories, such as hats, scarves, hosiery, and handbags,
29 with a sales price of one hundred dollars (\$100.00) or less per item.
- 30 (3) Footwear with a sales price of one hundred dollars (\$100.00) or less
31 per item.
- 32 (4) School supplies, such as pens, pencils, paper, binders, notebooks,
33 textbooks, reference book bags, lunchboxes, and calculators, with a
34 sales price of one hundred dollars (\$100.00) or less per item.
- 35 (5) Computers, printers and printer supplies, and educational computer
36 software, with a sales price of three thousand five hundred dollars
37 (\$3,500) or less per item.

38 (b) The exemption allowed by this section does not apply to the following:

- 39 (1) Sales of jewelry, cosmetics, eyewear, wallets, or watches.
- 40 (2) Sales of furniture.
- 41 (3) Sales involving a layaway contract or a similar deferred payment and
42 delivery plan.
- 43 (4) Sales of an item for use in a trade or business.

1 (5) Rentals.

2 (c) For the purpose of this section, "computer" means a central processing unit
3 for personal use and any peripherals sold with it and any computer software installed at
4 the time of purchase."

5 **SECTION 11.(b)** G.S. 105-467, as amended by S.L. 2001-347, reads as
6 rewritten:

7 **"§ 105-467. Scope of sales tax.**

8 (a) **Sales Tax.** – The sales tax that may be imposed under this Article is limited to
9 a tax at the rate of one percent (1%) of the transactions listed in this subsection. The
10 sales tax authorized by this Article does not apply to sales that are taxable by the State
11 under G.S. 105-164.4 but are not specifically included in this subsection.

12 (1) The sales price of tangible personal property subject to the general rate
13 of sales tax imposed by the State under G.S. 105-164.4(a)(1) and
14 (a)(4b).

15 (2) The gross receipts derived from the lease or rental of tangible personal
16 property when the lease or rental of the property is subject to the
17 general rate of sales tax imposed by the State under G.S.
18 105-164.4(a)(2).

19 (3) The gross receipts derived from the rental of any room or other
20 accommodations subject to the general rate of sales tax imposed by the
21 State under G.S. 105-164.4(a)(3).

22 (4) The gross receipts derived from services rendered by laundries, dry
23 cleaners, and other businesses subject to the general rate of sales tax
24 imposed by the State under G.S. 105-164.4(a)(4).

25 (5) The sales price of food that is not otherwise exempt from tax pursuant
26 to G.S. 105-164.13 but would be exempt from the State sales and use
27 tax pursuant to G.S. 105-164.13 if it were purchased under the Food
28 Stamp Program, 7 U.S.C. § 51.

29 (b) **Exemptions and Refunds.** – The State exemptions and exclusions contained
30 in ~~G.S. 105-164.13~~ G.S. 105-164.13, the State sales and use tax holiday contained in G.S.
31 105-164.13C, and the State refund provisions contained in G.S. 105-164.14 apply to the
32 local sales and use tax authorized to be levied and imposed under this Article. A taxing
33 county may not allow an exemption, exclusion, or refund that is not allowed under the
34 State sales and use tax.

35 (c) **Sourcing.** – The local sales tax authorized to be imposed and levied under this
36 Article applies to taxable transactions by retailers whose place of business is located
37 within the taxing county. The sourcing principles in G.S. 105-164.4B apply in
38 determining whether the local sales tax applies to a transaction."

39 **SECTION 11.(c)** The second paragraph of Section 4 of Chapter 1096 of the
40 1967 Session Laws is rewritten to read:

41 "The exemptions and exclusions contained in G.S. 105-164.13 and the sales and use
42 tax holiday contained in G.S. 105-164.13C shall apply with equal force and like manner
43 to the local sales tax authorized to be imposed and levied under this division. The

1 county shall have no authority, with respect to the local sales and use tax, imposed
2 under this division, to change, alter, add or delete any exemptions or exclusions
3 contained under G.S. 105-164.13."

4 **SECTION 11.(d)** This section is effective January 1, 2002, and applies to
5 sales made on or after that date.

6

7 **PART 12. EFFECTIVE DATE**

8 **SECTION 12.** Except as otherwise provided in this act, this act is effective
9 when it becomes law.