

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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**HOUSE BILL 231
Committee Substitute Favorable 8/23/01
Committee Substitute #2 Favorable 8/28/01
Fourth Edition Engrossed 8/30/01
Senate Finance Committee Substitute Adopted 9/18/01**

Short Title: Education Revenue Act.

(Public)

Sponsors:

Referred to:

February 26, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO (1) INCREASE THE STATE SALES TAX BY ONE-HALF CENT
3 FROM OCTOBER 16, 2001, UNTIL JULY 1, 2003, (2) PROVIDE A STABLE
4 SOURCE OF REVENUE FOR LOCAL GOVERNMENTS BY AUTHORIZING A
5 LOCAL OPTION, HALF-CENT SALES TAX BEGINNING JULY 1, 2003, (3)
6 REPEAL THE LOCAL TAX REIMBURSEMENTS PAID ANNUALLY TO
7 LOCAL GOVERNMENTS, (4) PROVIDE A HOLD HARMLESS PAYMENT
8 FOR THOSE COUNTIES AND MUNICIPALITIES WHOSE ESTIMATED GAIN
9 FROM THE NEW SALES TAX WOULD BE LESS THAN 100% OF THEIR
10 REPEALED REIMBURSEMENT AMOUNT, (5) EXEMPT CERTAIN ITEMS
11 PURCHASED DURING A SPECIFIC PERIOD FROM THE SALES AND USE
12 TAX, (6) EQUALIZE TAXATION OF SATELLITE TV AND CABLE TV, (7)
13 ADD A NEW TAX BRACKET WITH AN ADDITIONAL 1/2% ON NET
14 TAXABLE INCOME ABOVE \$200,000 FOR THREE YEARS, (8) ELIMINATE
15 THE MARRIAGE TAX PENALTY FOR THE STANDARD DEDUCTION, (9)
16 INCREASE THE TAX CREDIT FOR CHILDREN FROM \$60 TO \$100 PER
17 CHILD, (10) ELIMINATE THE CHILDREN'S HEALTH INSURANCE TAX
18 CREDIT, (11) EQUALIZE TAXATION OF HEALTH MAINTENANCE
19 ORGANIZATIONS AND MEDICAL SERVICE CORPORATIONS AT 1% OF
20 GROSS PREMIUMS, (12) APPLY THE SAME SALES TAX RATE TO
21 SPIRITUOUS LIQUOR THAT APPLIES TO OTHER ALCOHOLIC
22 BEVERAGES AND REDUCE THE EXCISE TAX ON SPIRITUOUS LIQUOR,
23 (13) ELIMINATE THE SPECIAL TAX BREAK FOR LUXURY VEHICLES, (14)
24 EXEMPT VOLUNTEER FIRE AND RESCUE VEHICLES FROM HIGHWAY
25 USE TAX, AND (15) PROVIDE UNIFORM TAXATION OF
26 TELECOMMUNICATIONS AT 6%.

1 The General Assembly of North Carolina enacts:

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23 **PART 1. INCREASE STATE SALES TAX BY ONE-HALF CENT UNTIL**
24 **JULY 1, 2003**

25 **SECTION 1.(a)** The introductory language of G.S. 105-164.4(a) reads as
26 rewritten:

27 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
28 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
29 ~~four percent (4%).~~ four and one-half percent (4 ½%)."

30 **SECTION 1.(b)** The provisions of this section increasing the general rate of
31 State sales tax do not apply to construction materials purchased to fulfill a lump-sum or
32 unit-price contract entered into or awarded before the effective date of the increase or
33 entered into or awarded pursuant to a bid made before the effective date of the increase
34 when the construction materials would otherwise be subject to the increased rate of tax
35 provided under this section.

36 **SECTION 1.(c)** This section becomes effective October 16, 2001, and
37 applies to sales made on or after that date. This section is repealed effective for sales
38 made on or after July 1, 2003. This section does not affect the rights or liabilities of the
39 State, a taxpayer, or another person arising under a statute amended or repealed by this
40 section before the effective date of its amendment or repeal; nor does it affect the right
41 to any refund or credit of a tax that accrued under the amended or repealed statute
42 before the effective date of its amendment or repeal.

43

PART 2. LOCAL OPTION SALES TAX/HOLD HARMLESS

SECTION 2.(a) Subchapter VIII of Chapter 105 of the General Statutes is amended by adding a new Article to read:

"Article 44.

"Third One-Half Cent (½¢) Local Government Sales and Use Tax.

"§ 105-515. Short title.

This Article is the Third One-Half Cent (½¢) Local Government Sales and Use Tax Act.

"§ 105-516. Limitations.

This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (½¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent (½¢) local sales and use tax under Article 42 of this Chapter.

"§ 105-517. Levy.

(a) After Vote. – If a majority of those voting in a special election held pursuant to this Article vote for the levy of the taxes in a county, the board of commissioners of a county may, by resolution, levy one-half percent (½%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law.

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

(c) Effective Date. – A tax levied under this Article may not become effective before July 1, 2003.

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

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

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

[] FOR [] AGAINST

one-half percent (½%) local sales and use taxes, to replace the current one-half percent (½%) State sales and use taxes that end July 1, 2003.'

"§ 105-519. Administration of taxes.

Except as provided in this Article, the adoption, levy, collection, administration, and repeal of these additional taxes must be in accordance with Article 39 of this Chapter. A

1 tax levied under this Article does not apply to the sales price of food that is exempt from
2 tax pursuant to G.S. 105-164.13B.

3 **"§ 105-520. Distribution of taxes.**

4 (a) Point of Origin. – The Secretary must, on a monthly basis, allocate to each
5 taxing county one-half of the net proceeds of the tax collected in that county under this
6 Article. If the Secretary collects taxes under this Article in a month and the taxes cannot
7 be identified as being attributable to a particular taxing county, the Secretary must
8 allocate one-half of the net proceeds of these taxes among the taxing counties in
9 proportion to the amount of taxes collected in each county under this Article in that
10 month.

11 (b) Per Capita. – The Secretary must, on a monthly basis, allocate the remaining
12 net proceeds of the tax collected under this Article among the taxing counties on a per
13 capita basis according to the most recent annual population estimates certified to the
14 Secretary by the State Budget Officer. The Secretary must then adjust the amount
15 allocated to each county as provided in G.S. 105-486(b).

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

23 **"§ 105-521. Transitional local government hold harmless.**

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

- 25 (1) Local government. – A county or municipality that received a
26 distribution of local sales taxes in the most recent fiscal year for which
27 a local sales tax share has been calculated.
- 28 (2) Local sales tax share. – A local government's percentage share of the
29 two-cent (2¢) sales taxes distributed during the most recent fiscal year
30 for which data are available.
- 31 (3) Repealed reimbursement amount. – The total amount a local
32 government would have been entitled to receive during the 2002-2003
33 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2,
34 105-277.001, and 105-277.1A, if the Governor had not withheld any
35 distributions under those sections.
- 36 (4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax
37 authorized in Article 39 of this Chapter and in Chapter 1096 of the
38 1967 Session Laws, the first one-half cent (½¢) local sales and use tax
39 authorized in Article 40 of this Chapter, and the second one-half cent
40 (½¢) local sales and use tax authorized in Article 42 of this Chapter.

41 (b) Distributions. – On or before September 15, 2003, and each September 15
42 thereafter, the Secretary must multiply each local government's local sales tax share by
43 the estimated amount that all local governments would be expected to receive during the

1 current fiscal year under G.S. 105-520 if every county levied the tax under this Article
2 for the year. If the resulting amount is less than one hundred percent (100%) of the local
3 government's repealed reimbursement amount, the Secretary must pay the local
4 government the difference, but not less than one hundred dollars (\$100.00).

5 On or before May 1, 2003, and each May 1 thereafter, the Office of State Budget
6 and Management and the Fiscal Research Division of the General Assembly must each
7 submit to the Secretary and to the General Assembly a final projection of the estimated
8 amount that all local governments would be expected to receive during the upcoming
9 fiscal year under G.S. 105-520 if every county levied the tax under this Article for the
10 fiscal year. If the Secretary does not use the lower of the two final projections to make
11 the calculation required by this subsection, the Secretary must report the reasons for this
12 decision to the Joint Legislative Commission on Governmental Operations within 60
13 days after receiving the projections.

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

16 (d) Reports. – The Secretary must report to the Revenue Laws Study Committee
17 by January 31, 2004, and each January 31 thereafter, the amount distributed under this
18 section for the current fiscal year."

19 **SECTION 2.(b)** Notwithstanding the provisions of G.S. 105-466(c), a tax
20 levied during the 2003 calendar year under Article 44 of Chapter 105 of the General
21 Statutes, as enacted by this act, may become effective on the first day of any calendar
22 month beginning on or after July 1, 2003. Notwithstanding the provisions of G.S.
23 105-466(c), if a county levies a tax during the 2003 calendar year under Article 44 of
24 Chapter 105 of the General Statutes, as enacted by this act, the county is required to
25 give the Secretary of Revenue only 30 days' advance notice of the tax levy. For taxes
26 levied on or after January 1, 2004, the provisions of G.S. 105-466(c) apply.

27 **SECTION 2.(c)** A tax levied under Article 44 of Chapter 105 of the General
28 Statutes, as enacted by this act, does not apply to construction materials purchased to
29 fulfill a lump-sum or unit-price contract entered into or awarded before the effective
30 date of the levy or entered into or awarded pursuant to a bid made before the effective
31 date of the levy when the construction materials would otherwise be subject to the tax
32 levied under Article 44 of Chapter 105 of the General Statutes.

33 **SECTION 2.(d)** This section is effective when it becomes law.
34

35 **PART 3. LOCAL GOVERNMENT REIMBURSEMENTS**

36 **SECTION 3.(a)** The following sections of the General Statutes are repealed:

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

1 (4) G.S. 105-277.001. Reimbursement for exclusion of retailers' and
2 wholesalers' inventories.

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

6 **SECTION 3.(b)** This section becomes effective July 1, 2003.

7
8 **PART 4. SALES TAX HOLIDAY**

9 **SECTION 4.(a)** Part 3 of Article 5 of Chapter 105 of the General Statutes is
10 amended by adding a new section to read:

11 **"§ 105-164.13C. Sales and use tax holiday.**

12 (a) The taxes imposed by this Article do not apply to the following items of
13 tangible personal property if sold between 12:01A.M. on the first Friday of August and
14 11:59 P.M. the following Sunday:

15 (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per
16 item.

17 (2) Clothing accessories, such as hats, scarves, hosiery, and handbags,
18 with a sales price of one hundred dollars (\$100.00) or less per item.

19 (3) Footwear with a sales price of one hundred dollars (\$100.00) or less
20 per item.

21 (4) School supplies, such as pens, pencils, paper, binders, notebooks,
22 textbooks, reference books, book bags, lunchboxes, and calculators,
23 with a sales price of one hundred dollars (\$100.00) or less per item.

24 (5) Computers, printers and printer supplies, and educational computer
25 software, with a sales price of three thousand five hundred dollars
26 (\$3,500) or less per item.

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

28 (1) Sales of jewelry, cosmetics, eyewear, wallets, or watches.

29 (2) Sales of furniture.

30 (3) Sales involving a layaway contract or a similar deferred payment and
31 delivery plan.

32 (4) Sales of an item for use in a trade or business.

33 (5) Rentals.

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

37 **SECTION 4.(b)** G.S. 105-467, as amended by S.L. 2001-347, reads as
38 rewritten:

39 **"§ 105-467. Scope of sales tax.**

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

- 1 (1) The sales price of tangible personal property subject to the general rate
2 of sales tax imposed by the State under G.S. 105-164.4(a)(1) and
3 (a)(4b).
- 4 (2) The gross receipts derived from the lease or rental of tangible personal
5 property when the lease or rental of the property is subject to the
6 general rate of sales tax imposed by the State under G.S.
7 105-164.4(a)(2).
- 8 (3) The gross receipts derived from the rental of any room or other
9 accommodations subject to the general rate of sales tax imposed by the
10 State under G.S. 105-164.4(a)(3).
- 11 (4) The gross receipts derived from services rendered by laundries, dry
12 cleaners, and other businesses subject to the general rate of sales tax
13 imposed by the State under G.S. 105-164.4(a)(4).
- 14 (5) The sales price of food that is not otherwise exempt from tax pursuant
15 to G.S. 105-164.13 but would be exempt from the State sales and use
16 tax pursuant to G.S. 105-164.13 if it were purchased under the Food
17 Stamp Program, 7 U.S.C. § 51.

18 (b) Exemptions and Refunds. – The State exemptions and exclusions contained
19 in ~~G.S. 105-164.13~~ 105-164.13, the State sales and use tax holiday contained in G.S.
20 105-164.13C, and the State refund provisions contained in G.S. 105-164.14 apply to the
21 local sales and use tax authorized to be levied and imposed under this Article. A taxing
22 county may not allow an exemption, exclusion, or refund that is not allowed under the
23 State sales and use tax.

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

28 **SECTION 4.(c)** The second paragraph of Section 4 of Chapter 1096 of the
29 1967 Session Laws is rewritten to read:

30 "The exemptions and exclusions contained in G.S. 105-164.13 and the sales and use
31 tax holiday contained in G.S. 105-164.13C apply with equal force and like manner to
32 the local sales tax authorized to be imposed and levied under this division. The county
33 shall have no authority, with respect to the local sales and use tax imposed under this
34 division, to change, alter, add, or delete any exemptions or exclusions contained under
35 G.S. 105-164.13."

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

39 **PART 5. EQUALIZE TAXATION OF SATELLITE TV AND CABLE TV**

40 **SECTION 5.(a)** G.S. 105-164.4(a) is amended by adding a new subdivision
41 to read:

- 42 "(6) The rate of five percent (5%) applies to the gross receipts derived from
43 providing direct-to-home satellite service to subscribers in this State. A

1 person engaged in the business of providing direct-to-home satellite
 2 service is considered a retailer under this Article."

3 SECTION 5.(b) G.S. 105-164.3 is amended by adding the following new
 4 subdivision to read:

5 "§ 105-164.3. Definitions.

6 The following definitions apply in this Article, except when the context clearly
 7 indicates a different meaning:

8 ...

9 (4a) Direct-to-home satellite service. – Programming transmitted or
 10 broadcast by satellite directly to the subscribers' premises without the
 11 use of ground equipment or distribution equipment, except equipment
 12 at the subscribers' premises or the uplink process to the satellite."

13 SECTION 5.(c) This section becomes effective January 1, 2002, and applies
 14 to sales made on or after that date.

15
 16 PART 6. NEW TAX BRACKET FOR INCOME OVER \$200,000

17 SECTION 6.(a) G.S. 105-134.2(a) reads as rewritten:

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

21 (1) For married individuals who file a joint return under G.S. 105-152 and
 22 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>8.25%</u>

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

30 ~~On the amount over twenty one thousand two hundred fifty dollars~~
 31 ~~(\$21,250) and up to one hundred thousand dollars (\$100,000), seven~~
 32 ~~percent (7%).~~

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

35 (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>8.25%</u>

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

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

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

- (3) For unmarried individuals other than surviving spouses and heads of 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>
<u>\$120,000</u>	<u>NA</u>	<u>8.25%</u>

~~On the North Carolina taxable income up to twelve thousand seven hundred fifty dollars (\$12,750), six percent (6%).~~

~~On the amount over twelve thousand seven hundred fifty dollars (\$12,750) and up to sixty thousand dollars (\$60,000), seven percent (7%).~~

~~On the amount over sixty thousand dollars (\$60,000), seven and seventy-five one-hundredths percent (7.75%).~~

- (4) For married individuals who do not file a joint return under G.S. 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>8.25%</u>

~~On the North Carolina taxable income up to ten thousand six hundred twenty five dollars (\$10,625), six percent (6%).~~

~~On the amount over ten thousand six hundred twenty five dollars (\$10,625) and up to fifty thousand dollars (\$50,000), seven percent (7%).~~

~~On the amount over fifty thousand dollars (\$50,000), seven and seventy-five one-hundredths percent (7.75%)."~~

SECTION 6.(b) This section becomes effective for taxable years beginning on or after January 1, 2001, and expires for taxable years beginning on or after January 1, 2004. Notwithstanding G.S. 105-163.15, no addition to tax may be made under that statute for a taxable year beginning on or after January 1, 2001, and before January 1, 2002, with respect to an underpayment of individual income tax to the extent the underpayment was created or increased by this section.

PART 7. ELIMINATE THE MARRIAGE TAX PENALTY FOR THE STANDARD DEDUCTION

SECTION 7.(a) Effective for taxable years beginning on or after January 1, 2002, G.S. 105-134.6(c)(3) and (4) reads as rewritten:

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

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

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

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

SECTION 7.(b) Effective for taxable years beginning on or after January 1, 2003, G.S. 105-134.6(c)(4), as amended by this section, reads as rewritten:

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

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

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

PART 8. INCREASE TAX CREDIT FOR CHILDREN

1 **PART 10. EQUALIZE TAXATION OF HMOs AND MEDICAL SERVICE**
2 **COMPANIES**

3 **SECTION 10.(a)** G.S. 105-228.5 reads as rewritten:

4 **"§ 105-228.5. Taxes measured by gross premiums.**

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

10 (b) Tax Base. –

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

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

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

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

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

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

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

40 Gross premiums from business done in this State in the case of life insurance
41 contracts, including supplemental contracts providing for disability benefits, accidental
42 death benefits, or other special benefits that are not annuities, means all premiums
43 collected in the calendar year, other than for contracts of reinsurance, for policies the

1 premiums on which are paid by or credited to persons, firms, or corporations resident in
2 this State, or in the case of group policies, for contracts of insurance covering persons
3 resident within this State. The only deductions allowed shall be for premiums refunded
4 on policies rescinded for fraud or other breach of contract and premiums that were paid
5 in advance on life insurance contracts and subsequently refunded to the insured,
6 premium payer, beneficiary or estate. Gross premiums shall be deemed to have been
7 collected for the amounts as provided in the policy contracts for the time in force during
8 the year, whether satisfied by cash payment, notes, loans, automatic premium loans,
9 applied dividend, or by any other means except waiver of premiums by companies
10 under a contract for waiver of premium in case of disability.

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

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

- 28 (1) All premiums received on or after July 1, 1973, from policies or
29 contracts issued in connection with the funding of a pension, annuity,
30 or profit-sharing plan qualified or exempt under section 401, 403, 404,
31 408, 457 or 501 of the Code as defined in G.S. 105-228.90.
32 (2) Premiums or considerations received from annuities, as defined in G.S.
33 58-7-15.
34 (3) Funds or considerations received in connection with funding
35 agreements, as defined in G.S. 58-7-16.
36 (4) The following premiums, to the extent federal law prohibits their
37 taxation under this Article:
38 a. Federal Employees Health Benefits Plan premiums.
39 b. Medicaid or Medicare premiums.

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

42 (d) Tax Rates; Disposition. –

- 1 (1) ~~Workers~~ Workers' Compensation. – The tax rate to be applied to gross
2 premiums, or the equivalent thereof in the case of self-insurers, on
3 contracts applicable to liabilities under the Workers' Compensation
4 Act ~~shall be is~~ two and five-tenths percent (2.5%). The net proceeds
5 shall be credited to the General Fund.
- 6 (2) Other Insurance Contracts. – The tax rate to be applied to gross
7 premiums on all other ~~insurance~~ taxable contracts issued by insurers
8 ~~shall be is~~ one and nine-tenths percent (1.9%). The net proceeds shall
9 be credited to the General Fund.
- 10 (3) Additional Statewide Fire and Lightning Rate. – An additional tax
11 shall be applied to gross premiums on contracts of insurance
12 applicable to fire and lightning coverage, except in the case of marine
13 and automobile policies, at the rate of one and thirty-three hundredths
14 percent (1.33%). Twenty-five percent (25%) of the net proceeds of this
15 additional tax shall be deposited in the Volunteer Fire Department
16 Fund established in Article 87 of Chapter 58 of the General Statutes.
17 The remaining net proceeds shall be credited to the General Fund.
- 18 (4) Additional Local Fire and Lightning Rate. – An additional tax shall be
19 applied to gross premiums on contracts of insurance applicable to fire
20 and lightning coverage within fire districts at the rate of one-half of
21 one percent (1/2 of 1%). The net proceeds shall be credited to the
22 Department of Insurance for disbursement pursuant to G.S. 58-84-25.
- 23 (5) Article 65 Corporations. – The tax rate to be applied to gross
24 premiums and/or gross collections from membership dues, exclusive
25 of receipts from cost plus plans, received by Article 65 corporations
26 ~~shall be one half of one percent (1/2 of 1%).~~ is one percent (1%). The
27 net proceeds shall be credited to the General Fund.
- 28 (6) Health Maintenance Organizations. – The tax rate to be applied to
29 gross premiums on insurance contracts issued by health maintenance
30 organizations is one percent (1%). The net proceeds shall be credited
31 to the General Fund.

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

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

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

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

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

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

23 **SECTION 10.(b)** G.S. 58-6-25(a) reads as rewritten:

24 "(a) Charge Levied. – There is levied on each insurance company an annual
25 charge for the purposes stated in subsection (d) of this section. The charge levied in this
26 section is in addition to all other fees and taxes. The percentage rate of the charge is
27 established pursuant to subsection (b) of this section. For each insurance company that
28 is not an Article 65 corporation nor a health maintenance organization, the rate is
29 applied to the company's premium tax liability for the taxable year. For Article 65
30 corporations and health maintenance organizations, the rate is applied to a ~~presumed~~
31 premium tax liability for the taxable year calculated as if the corporation or organization
32 were ~~an insurer providing health insurance. paying tax at the rate in G.S.~~
33 105-228.5(d)(2). In determining an insurance company's premium tax liability for a
34 taxable year, the following shall be disregarded:

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

36 (2) The additional local fire and lightning tax imposed by G.S.
37 105-228.5(d)(4).

38 (3) Any tax credits for guaranty or solvency fund assessments under G.S.
39 105-228.5A or G.S. 97-133(a).

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

42 **SECTION 10.(c)** G.S. 58-6-25(e) reads as rewritten:

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

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

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

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

6 **SECTION 10.(d)** This section is effective for taxable years beginning on or
7 after January 1, 2002.

8
9 **PART 11. SPIRITUOUS LIQUOR SALES TAX AND EXCISE TAX**

10 **SECTION 11.(a)** G.S. 105-164.13(37) is repealed.

11 **SECTION 11.(b)** G.S. 105-164.4(a) is amended by adding a new
12 subdivision to read:

13 "(6) The rate of six percent (6%) applies to the sales price of spirituous
14 liquor other than mixed beverages. As used in this subdivision, the
15 terms 'spirituous liquor' and 'mixed beverage' have the meanings
16 provided in G.S. 18B-101."

17 **SECTION 11.(c)** G.S. 105-113.80(c) reads as rewritten:

18 "(c) Liquor. – An excise tax of twenty-eight percent (28%) is levied on liquor sold
19 in ABC stores. Pursuant to G.S. 18B-804(b), the price of liquor on which this tax is
20 computed is the distiller's price plus (i) the State ABC warehouse freight and bailment
21 charges, and (ii) a markup for local ABC boards. ~~This tax is in lieu of sales and use~~
22 ~~taxes; accordingly, liquor is exempt from those taxes as provided in G.S.~~
23 ~~105-164.13(37).~~"

24 **SECTION 11.(d)** G.S. 105-113.80(c), as amended by subsection (c) of this
25 section, reads as rewritten:

26 "(c) Liquor. – An excise tax of ~~twenty-eight percent (28%)~~ twenty-five percent
27 (25%) is levied on liquor sold in ABC stores. Pursuant to G.S. 18B-804(b), the price of
28 liquor on which this tax is computed is the distiller's price plus (i) the State ABC
29 warehouse freight and bailment charges, and (ii) a markup for local ABC boards."

30 **SECTION 11.(e)** Subsection (d) of this section becomes effective February
31 1, 2002. The remainder of this section becomes effective December 1, 2001, and
32 applies to sales made on or after that date.

33
34 **PART 12. NO TAX BREAK FOR LUXURY CARS/NO FIRE & RESCUE**
35 **VEHICLE TAX**

36 **SECTION 12.(a)** G.S. 105-187.3(a) reads as rewritten:

37 "(a) Amount. – The rate of the use tax imposed by this Article is three percent
38 (3%) of the retail value of a motor vehicle for which a certificate of title is issued. The
39 tax is payable as provided in G.S. 105-187.4. The tax may not be more than one
40 thousand dollars (\$1,000) for each certificate of title issued for a Class A or Class B
41 motor vehicle that is a commercial motor vehicle, as defined in G.S. 20-4.01. ~~The tax~~
42 ~~may not be more than one thousand five hundred dollars (\$1,500) for each certificate of~~
43 ~~title issued for any other motor vehicle."~~

1 **SECTION 12.(b)** G.S. 105-187.5(b) reads as rewritten:

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

9 **SECTION 12.(c)** G.S. 105-187.9 reads as rewritten:

10 "**§ 105-187.9. Disposition of tax proceeds.**

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

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

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

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

29 **SECTION 12.(d)** G.S. 105-187.6(a) reads as rewritten:

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

32 (1) To the insurer of the motor vehicle under G.S. 20-109.1 because the
33 vehicle is a salvage vehicle.

34 (2) To either a manufacturer, as defined in G.S. 20-286, or a motor vehicle
35 retailer for the purpose of resale.

36 (3) To the same owner to reflect a change or correction in the owner's
37 name.

38 (4) By will or intestacy.

39 (5) By a gift between a husband and wife, a parent and child, or a
40 stepparent and a stepchild.

41 (6) By a distribution of marital or divisible property incident to a marital
42 separation or divorce.

- 1 (7) To a handicapped person from the Department of Health and Human
2 Services after the vehicle has been equipped by the Department for use
3 by the handicapped.
- 4 (8) To a local board of education for use in the driver education program
5 of a public school when the motor vehicle is transferred:
6 a. By a retailer and is to be transferred back to the retailer within
7 300 days after the transfer to the local board.
8 b. By a local board of education.
- 9 (9) To a volunteer fire department or volunteer rescue squad that is not
10 part of a unit of local government, has no more than two paid
11 employees, and is exempt from State income tax under G.S.
12 105-130.11, when the motor vehicle is one of the following:
13 a. A fire truck, a pump truck, a tanker truck, or a ladder truck used
14 to suppress fire.
15 b. A four-wheel drive vehicle intended to be mounted with a water
16 tank and hose and used for forest fire fighting.
17 c. An emergency services vehicle."

18 **SECTION 12.(e)** G.S. 105-187.1 reads as rewritten:

19 **"§ 105-187.1. Definitions.**

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

- 21 (1) ~~"Commissioner"~~ means the Commissioner. – The Commissioner of
22 Motor Vehicles.
- 23 (2) ~~"Division"~~ means the Division. – The Division of Motor Vehicles,
24 Department of Transportation.
- 25 (3) ~~"Long term lease or rental"~~ means a Long-term lease or rental. – A
26 lease or rental made under a written agreement to lease or rent
27 property to the same person for a period of at least 365 continuous
28 days.
- 29 (3a) Rescue squad. – An organization that provides rescue services,
30 emergency medical services, or both.
- 31 (3a)(3b) Retailer. – A retailer as defined in G.S. 105-164.3 who is engaged in
32 the business of selling, leasing, or renting motor vehicles.
- 33 (4) ~~"Short term lease or rental"~~ means a Short-term lease or rental. – A
34 lease or rental that is not a long-term lease or rental."

35 **SECTION 12.(f)** Subsection (c) of this section is effective on and after July
36 1, 2001. The remainder of this section becomes effective October 1, 2001, and applies
37 to certificates of title issued on or after that date.

38
39 **PART 13. UNIFORM TELECOMMUNICATIONS TAX AT 6%**

40 **SECTION 13.(a)** If House Bill 571, 2001 General Assembly, becomes law
41 on or before January 1, 2002, G.S. 105-164.4(a)(4c), as amended by House Bill 571,
42 reads as rewritten:

1 "(4c) The rate of ~~four and one half percent (4.5%)~~ six percent (6%) applies
2 to the gross receipts derived from providing telecommunications
3 service. A person who provides telecommunications service is
4 considered a retailer under this Article. Telecommunications service is
5 taxed in accordance with G.S. 105-164.4B."

6 **SECTION 13.(b)** If House Bill 571, 2001 General Assembly, becomes law
7 on or before January 1, 2002, G.S. 105-164.44F(a), as enacted by House Bill 571, reads
8 as rewritten:

9 "(a) Amount. – The Secretary must distribute to the cities part of the taxes
10 imposed by G.S. 105-164.4(a)(4c) on telecommunications service. The Secretary must
11 make the distribution within 75 days after the end of each calendar quarter. The amount
12 the Secretary must distribute is ~~twenty-four and four tenths percent (24.4%)~~ eighteen
13 and twenty-six hundredths percent (18.26%) of the net proceeds of the taxes collected
14 during the quarter, minus two million six hundred twenty thousand nine hundred
15 forty-eight dollars (\$2,620,948). This deduction is one-fourth of the annual amount by
16 which the distribution to cities of the gross receipts franchise tax on telephone
17 companies, imposed by former G.S. 105-120, was required to be reduced beginning in
18 fiscal year 1995-96 as a result of the 'freeze deduction.' The Secretary must distribute
19 the specified percentage of the proceeds, less the 'freeze deduction' among the cities in
20 accordance with this section."

21 **SECTION 13.(c)** This section becomes effective January 1, 2002, and
22 applies to taxable services reflected on bills dated on or after January 1, 2002.

23 24 **PART 14. EFFECTIVE DATE**

25 **SECTION 14.** Except as otherwise provided in this act, this act is effective
26 when it becomes law.