

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

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HOUSE BILL 1656

Short Title: Temp. Revenue Increase to Protect Children. (Public)

Sponsors: Representative Michaux.

Referred to: Finance.

June 13, 2002

A BILL TO BE ENTITLED

1 AN ACT TO PROTECT OUR CHILDREN BY INSTITUTING TEMPORARY
2 REVENUE INCREASES BY TRANSFERRING FUNDS TO THE GENERAL
3 FUND FROM THE TOBACCO SETTLEMENT FUNDS, BY ELIMINATING
4 BILL LEE ACT CREDITS IN TIERS FOUR AND FIVE, BY REINSTATING THE
5 CORPORATE INCOME TAX TO PREVIOUS LEVELS, BY ENACTING A
6 SURTAX ON HIGHER-INCOME INDIVIDUALS, AND BY TRANSFERRING
7 MONEY FROM THE HIGHWAY TRUST FUND.
8

9 The General Assembly of North Carolina enacts:

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11 **PART I. TRANSFER OF TOBACCO SETTLEMENT FUNDS**

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13 **SECTION 1.1.** Notwithstanding G.S. 143-16.4(a2), all of the funds credited
14 to the Tobacco Trust Account from the Master Settlement Agreement pursuant to
15 Section 6(2) of S.L. 1999-2 during fiscal year 2002-2003 shall be transferred from the
16 Department of Agriculture and Consumer Services, Budget Code 23703 (Tobacco Trust
17 Fund) to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State
18 Transfers) to support General Fund appropriations for the 2002-2003 fiscal year.

19 **SECTION 1.2.** Notwithstanding G.S. 143-16.4(a1), all of the funds credited
20 to the Health Trust Account from the Master Settlement Agreement pursuant to Section
21 6(2) of S.L. 1999-2 during fiscal year 2002-2003 shall be transferred from the
22 Department of State Treasurer, Budget Code 23460 (Health and Wellness Trust Fund)
23 to the State Controller to be deposited in Nontax Budget Code 19978 (Intra State
24 Transfers) to support General Fund appropriations for the 2002-2003 fiscal year.

25 **SECTION 1.3.** Pursuant to Section 2(b) of S.L. 1999-2, all of the fifty
26 percent (50%) of the annual installment payment to the North Carolina State Specific
27 Account otherwise transferred and assigned to The Golden L.E.A.F. (Long-Term
28 Economic Advancement Foundation), Inc., during the 2002-2003 fiscal year is
29 transferred to the State Controller to be deposited in Nontax Budget Code 19978 (Intra

1 State Transfers) to support General Fund appropriations for the 2002-2003 fiscal year.
2 The Attorney General shall take all necessary actions to notify the court in the action
3 entitled State of North Carolina v. Philip Morris Incorporated, Et. Al., 98 CVS 14377, in
4 the General Court of Justice, Superior Court Division, Wake County, North Carolina,
5 and the administrators of the State Specific Account established under the Master
6 Settlement Agreement of this action by the General Assembly redirecting this payment.

7 **SECTION 1.4.** This part is effective when it becomes law.
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9 **PART II. ELIMINATE BILL LEE ACT CREDITS IN TIERS FOUR AND FIVE**
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11 **SECTION 2.1.** G.S. 105-129.3A(c) reads as rewritten:

12 "(c) Relationship With Enterprise Tiers. – For the purpose of the wage standard
13 requirement of G.S. 105-129.4, the credit for investing in machinery and equipment
14 allowed in G.S. 105-129.9, and the credit for worker training allowed in G.S.
15 105-129.11, a development zone is considered an enterprise tier one area. For all other
16 purposes, a development zone has the lower of an enterprise tier three designation or the
17 same enterprise tier designation as the county in which it is located."

18 **SECTION 2.2.** G.S. 105-129.4 is amended by adding a new subsection to
19 read:

20 "(a3) Enterprise Tier. – Unless further restricted by another provision of this
21 Article, a taxpayer is eligible for a credit allowed under this Article only if the location
22 with respect to which the credit is claimed is in an enterprise tier one, two, or three area
23 in the year in which the business activity for which a credit is claimed occurred. If,
24 during the period the installments of a credit under this Article accrue, the enterprise tier
25 of the area changes so that the taxpayer would no longer be eligible for the credit, the
26 credit does not expire and the taxpayer may continue to take any remaining installments
27 of the credit and may continue to take the portion of an installment that accrued in a
28 previous year and was carried forward to the extent permitted under G.S. 105-129.5."

29 **SECTION 2.3.** G.S. 105-129.6(a1) reads as rewritten:

30 "(a1) Fee. – When filing a return for a taxable year in which the taxpayer engaged
31 in activity for which the taxpayer is eligible for a credit under this Article, the taxpayer
32 must pay the Department of Revenue a fee of five hundred dollars (\$500.00) for each
33 credit the taxpayer claims or intends to claim with respect to a location that is in an
34 enterprise tier ~~three, four, or five~~ three area, subject to a maximum fee of one thousand
35 five hundred dollars (\$1,500) per taxpayer per taxable year. This fee does not apply to
36 any credit the taxpayer claims or intends to claim with respect to a location that is in a
37 development zone as defined in G.S. 105-129.3A. If the taxpayer claims or intends to
38 claim a credit that relates to locations in more than one enterprise tier area, the fee is
39 based on the highest-numbered enterprise tier area.

40 The fee is due at the time the return is due for the taxable year in which the taxpayer
41 engaged in the activity for which the taxpayer is eligible for a credit. No credit is
42 allowed under this Article for a taxable year until all outstanding fees have been paid.

43 The Secretary of Revenue shall retain three-fourths of the proceeds of the fee
44 imposed in this section for the costs of administering and auditing the credits allowed in

1 this Article. The Secretary of Revenue shall credit the remaining proceeds of the fee
 2 imposed in this section to the Department of Commerce for the costs of administering
 3 this Article. The proceeds of the fee are receipts of the Department to which they are
 4 credited."

5 **SECTION 2.4.** G.S. 105-129.8(a) reads as rewritten:

6 "(a) Credit. – A taxpayer that meets the eligibility requirements set out in G.S.
 7 105-129.4, has five or more full-time employees, and hires an additional full-time
 8 employee during the taxable year to fill a position located in this State is allowed a
 9 credit for creating a new full-time job. The amount of the credit for each new full-time
 10 job created is set out in the table below and is based on the enterprise tier of the area in
 11 which the position is located. In addition, if the position is located in a development
 12 zone, the amount of the credit is increased by four thousand dollars (\$4,000) per job.

13 Area Enterprise Tier	Amount of Credit
14 Tier One	\$12,500
15 Tier Two	4,000
16 Tier Three	3,000
17 Tier Four	1,000
18 Tier Five	500

19 A position is located in an area if more than fifty percent (50%) of the employee's
 20 duties are performed in the area. The credit may not be taken in the taxable year in
 21 which the additional employee is hired. Instead, the credit must be taken in equal
 22 installments over the four years following the taxable year in which the additional
 23 employee was hired and is conditioned on the continued employment by the taxpayer of
 24 the number of full-time employees the taxpayer had upon hiring the employee that
 25 caused the taxpayer to qualify for the credit.

26 If, in one of the four years in which the installment of a credit accrues, the number of
 27 the taxpayer's full-time employees falls below the number of full-time employees the
 28 taxpayer had in the year in which the taxpayer qualified for the credit, the credit expires
 29 and the taxpayer may not take any remaining installment of the credit. The taxpayer
 30 may, however, take the portion of an installment that accrued in a previous year and was
 31 carried forward to the extent permitted under G.S. 105-129.5.

32 Jobs transferred from one area in the State to another area in the State are not
 33 considered new jobs for purposes of this section. If, in one of the four years in which the
 34 installment of a credit accrues, the position filled by the employee is moved to an area
 35 in a higher- or lower-numbered enterprise tier, or is moved from a development zone to
 36 an area that is not a development zone, the remaining installments of the credit must be
 37 calculated as if the position had been created initially in the area to which it was
 38 moved."

39 **SECTION 2.5.** G.S. 105-129.9(c) reads as rewritten:

40 "(c) Threshold. – The applicable threshold is the appropriate amount set out in the
 41 following table based on the enterprise tier where the eligible machinery and equipment
 42 are placed in service during the taxable year. If the taxpayer places eligible machinery
 43 and equipment in service at more than one establishment in an enterprise tier during the
 44 taxable year, the threshold applies separately to the eligible machinery and equipment

1 placed in service at each establishment. If the taxpayer places eligible machinery and
 2 equipment in service at an establishment over the course of a two-year period, the
 3 applicable threshold for the second taxable year is reduced by the eligible investment
 4 amount for the previous taxable year.

Area Enterprise	Tier Threshold
Tier One	\$ -0-
Tier Two	100,000
Tier Three	200,000
Tier Four	500,000
Tier Five	1,000,000

11 **SECTION 2.6.** This part is effective for taxable years beginning on or after
 12 January 1, 2003.

14 PART III. CORPORATE TAX RATE

16 **SECTION 3.1.** G.S. 105-130.3 reads as rewritten:

17 "**§ 105-130.3. Corporations. Corporate income tax imposed.**

18 A tax is imposed on the State net income of every C Corporation doing business in
 19 this ~~State~~ State at the rate of seven and three-quarters percent (7.75%) of the taxpayer's
 20 State net income. An S Corporation is not subject to the tax levied in this section. ~~The~~
 21 ~~tax is a percentage of the taxpayer's State net income computed as follows:~~

Income Years Beginning	Tax
In 1997	7.5%
In 1998	7.25%
In 1999	7%
After 1999	6.9%."

27 **SECTION 3.2.** This part is effective for taxable years beginning on or after
 28 January 1, 2002, and expires for taxable years beginning on or after January 1, 2005.

30 PART IV. INCREASE TAX RATE ON HIGHER-INCOME INDIVIDUAL 31 TAXPAYERS

33 **SECTION 4.1.** Section 34.18(b) of S.L. 2001-424 reads as rewritten:

34 "**SECTION 34.18.(b)** This section becomes effective for taxable years beginning
 35 on or after January 1, 2001, and expires for taxable years beginning on or after January
 36 1, ~~2004~~ 2005. Notwithstanding G.S. 105-163.15, no addition to tax may be made under
 37 that statute for a taxable year beginning on or after January 1, 2001, and before January
 38 1, 2002, with respect to an underpayment of individual income tax to the extent the
 39 underpayment was created or increased by this section."

40 **SECTION 4.2.** G.S. 105-134.2(a) reads as rewritten:

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

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

Over	Up To	Rate
-0-	\$21,250	6%
\$21,250	\$100,000	7%
\$100,000	\$200,000	7.75% 8.75%
\$200,000	NA	8.25% 9.25%

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

Over	Up To	Rate
-0-	\$17,000	6%
\$17,000	\$80,000	7%
\$80,000	\$160,000	7.75% 8.75%
\$160,000	NA	8.25% 9.25%

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

Over	Up To	Rate
-0-	\$12,750	6%
\$12,750	\$60,000	7%
\$60,000	\$120,000	7.75% 8.75%
\$120,000	NA	8.25% 9.25%

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

Over	Up To	Rate
-0-	\$10,625	6%
\$10,625	\$50,000	7%
\$50,000	\$100,000	7.75% 8.75%
\$100,000	NA	8.25% 9.25%"

SECTION 4.3. Section 4.2 of this act is effective for taxable years beginning on or after January 1, 2002, and expires for taxable years that begin on or after January 1, 2005. The remainder of this part is effective when it becomes law.

PART V. TRANSFER FROM HIGHWAY TRUST FUND

SECTION 5.1. There is transferred from the Highway Trust Fund to the General Fund the sum of two hundred million dollars (\$200,000,000) for the 2002-2003 fiscal year. It is the intent of the General Assembly that funds be transferred from the General Fund to the Highway Trust Fund over five years beginning with the 2005-2006 fiscal year in the amount of two hundred million dollars (\$200,000,000) plus interest at the net rate of return generated by the State Treasurer's Short Term Investment Fund.

SECTION 5.2. This section becomes effective July 1, 2002.

PART VI. EFFECTIVE DATE AND SAVINGS CLAUSE

1 **SECTION 6.** Except as otherwise provided in this act, this act is effective
2 when it becomes law. Notwithstanding G.S. 105-163.15 and G.S. 105-163.41, no
3 addition to tax may be made under those statutes for a taxable year beginning on or after
4 January 1, 2001, and before January 1, 2002, with respect to an underpayment of
5 income tax to the extent the underpayment was created or increased by this act.