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Short Title: State Medicaid Swap.

(Public)

Sponsors:

Referred to:

March 26, 2007

A BILL TO BE ENTITLED

AN ACT TO PHASE OUT THE COUNTY SHARE OF THE NONFEDERAL SHARE OF MEDICAID COSTS, TO MAKE CORRESPONDING CHANGES TO STATE AND LOCAL REVENUE STREAMS, TO PROVIDE A REFUNDABLE EARNED INCOME TAX CREDIT, AND TO TAX ANNUITIES IN THE SAME MANNER AS OTHER INSURANCE PRODUCTS.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Effective October 1, 2007, twenty-five percent (25%) of the nonfederal share of Medical Assistance Program costs borne by the counties, excluding administrative costs, shall be borne by the State.

SECTION 1.(b) Effective July 1, 2008, fifty percent (50%) of the nonfederal share of Medical Assistance Program costs borne by the counties, excluding administrative costs, shall be borne by the State.

SECTION 1.(c) Effective July 1, 2009, G.S. 108A-54 reads as rewritten:

"§ 108A-54. Authorization of Medical Assistance Program.

The Department is authorized ~~and empowered to~~ establish a ~~Medical Assistance Medicaid Program in accordance with Title XIX of the federal Social Security Act.~~ from federal, State and county appropriations and to adopt rules and regulations under which payments are to be made in accordance with the provisions of this Part. The Department may adopt rules to implement the Program. The State is responsible for the nonfederal share of the costs of medical services provided under the Program. A county is responsible for the county's cost of administering the Program in that county. The nonfederal share may be divided between the State and the counties, in a manner consistent with the provisions of the federal Social Security Act, except that the share required from the counties may not exceed the share required from the state. If a portion of the nonfederal share is required from the counties, the boards of county

~~commissioners of the several counties shall levy, impose and collect the taxes required for the special purpose of medical assistance as provided in this Part, in an amount sufficient to cover each county's share of such assistance."~~

SECTION 1.(d) Subsection (a) of this section becomes effective October 1, 2007, and applies to Medicaid costs incurred on or after that date. Subsection (b) of this section becomes effective July 1, 2008, and applies to Medicaid costs incurred on or after that date. Subsection (c) of this section becomes effective July 1, 2009, and applies to Medicaid costs incurred on or after that date.

SECTION 2.(a) ADM Funding Adjustment. – Notwithstanding G.S. 115C-546.2(a), the amount that would otherwise be allocated to counties under that subsection for fiscal year 2007-2008 from the Public School Building Capital Fund is reduced as follows:

- (1) If the amount of a county's Medicaid payments that are assumed by the State for fiscal year 2007-2008 under Section 1(a) of this act exceeds the allocation the county would receive under this section based on its per average daily membership, the amount of the county's allocation from the Fund is reduced by sixty percent (60%) of the amount the county would receive based on its average daily membership.
- (2) If the amount of a county's Medicaid payments that are assumed by the State for fiscal year 2007-2008 under Section 1(a) of this act does not exceed the allocation the county would receive under this section based on its per average daily membership, the amount of the county's allocation from the Fund is reduced by an amount equal to sixty percent (60%) of the county's Medicaid payments that are assumed by the State for fiscal year 2007-2008.

SECTION 2.(b) Restriction. – In fiscal year 2007-2008, a county must use a portion of the revenue that is available to it, as a result of the assumption by the State of part of the county's Medicaid payments, for the purposes set out in G.S. 115C-546.2(b). The portion that must be used for these purposes is an amount equal to the difference between what the county would receive under G.S. 115C-546.2(a) based on its per average daily membership and the adjusted amount it receives under subsection (a) of this section.

SECTION 2.(c) This section is effective when it becomes law and applies to allocations from the Public School Building Capital Fund for fiscal year 2007-2008.

SECTION 3.(a) Notwithstanding the provisions of Article 44 of Chapter 105 of the General Statutes that authorize one-half percent (1/2%) local sales and use taxes, the tax rate for a tax imposed under that Article for the period October 1, 2008, through September 30, 2009, is one-quarter percent (1/4%) rather than one-half percent (1/2%). A resolution enacted by a county under Article 44 before October 1, 2008, to levy one-half percent (1/2%) local sales and use tax is considered to be a resolution authorizing the levy of one-fourth percent (1/4%) local sales and use taxes under that Article, as amended by this section.

SECTION 3.(b) G.S. 105-520 reads as rewritten:
"§ 105-520. Distribution of taxes.

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

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

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

20 SECTION 3.(c) G.S. 105-521 reads as rewritten:

21 "§ 105-521. **Transitional local government ~~hold harmless~~hold harmless for**
22 **repealed reimbursements.**

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

- 24 (1) Local government. – A county or municipality that received a
25 distribution of local sales taxes in the most recent fiscal year for which
26 a local sales tax share has been calculated.
- 27 (2) Local sales tax share. – A local government's percentage share of the
28 two-cent (2¢) sales taxes distributed during the most recent fiscal year
29 for which data are available.
- 30 (3) Repealed reimbursement amount. – The total amount a local
31 government would have been entitled to receive during the 2002-2003
32 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2,
33 105-277.001, and 105-277.1A, if the Governor had not withheld any
34 distributions under those sections.

35 (3a) Replacement revenue. – The sum of the following:

- 36 a. Fifty percent (50%) of the amount of sales and use tax revenue
37 distributed under Article 40 of this Chapter, other than revenue
38 from the sale of food that is subject to local tax but is exempt
39 from State tax under G.S. 105-164.13B.
- 40 b. Twenty-five percent (25%) of the amount of sales and use tax
41 revenue distributed under Article 39 of this Chapter or under
42 Chapter 1096 of the 1967 Session Laws, other than revenue
43 from the sale of food that is subject to local tax but is exempt
44 from State tax under G.S. 105-164.13B.

1 (4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax
2 authorized in Article 39 of this Chapter and in Chapter 1096 of the
3 1967 Session Laws, the first one-half cent (1/2¢) local sales and use
4 tax authorized in Article 40 of this Chapter, and the second one-half
5 cent (1/2¢) local sales and use tax authorized in Article 42 of this
6 Chapter.

7 (b) Distributions. – On or before August 15, ~~2003, 2008,~~ and every August 15
8 through August 15, 2012, the Secretary must multiply each local government's local
9 sales tax share by the estimated amount of replacement revenue that all local
10 governments ~~would be~~ are expected to receive during the current fiscal year ~~under~~
11 ~~G.S. 105-520 if every county levied the tax under this Article for the year.~~ If the
12 resulting amount is less than one hundred percent (100%) of the local government's
13 repealed reimbursement amount, the Secretary must pay the local government the
14 difference, but not less than one hundred dollars (\$100.00).

15 On or before ~~May 1, 2003, and every May 1~~ May 1 of each fiscal year through May
16 1, 2012, the Department of Revenue and the Fiscal Research Division of the General
17 Assembly must each submit to the Secretary and to the General Assembly a final
18 projection of the estimated amount of replacement revenue that all local governments
19 would be expected to receive during the upcoming ~~fiscal year under G.S. 105-520 if~~
20 ~~every county levied the tax under this Article for the fiscal year.~~ If, after May 1 and
21 before a distribution is made, a law is enacted that would affect the projection, an
22 updated projection must be submitted as soon as practicable. If the Secretary does not
23 use the lower of the two final projections to make the calculation required by this
24 subsection, the Secretary must report the reasons for this decision to the Joint
25 Legislative Commission on Governmental Operations within 60 days after receiving the
26 projections.

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

29 (d) Reports. – The Secretary must report to the Revenue Laws Study Committee
30 by January 31, 2004, and each January 31 through January 31, 2013, the amount
31 distributed under this section for the current fiscal year."

32 **SECTION 3.(d)** G.S. 105-472 is amended by adding a new subsection to
33 read:

34 "(b1) County Reduction for City Hold Harmless. – The Secretary must reduce each
35 county's monthly allocation under subsection (b) of this section by the amount set in
36 G.S. 105-522. This reduction does not affect the amount allocated to municipalities
37 under this section."

38 **SECTION 3.(e)** Section 9 of Chapter 1096 of the 1967 Session Laws, as
39 amended, is amended by adding a new paragraph at the end of that section to read:

40 "The Secretary of Revenue must reduce the amount distributable to Mecklenburg
41 County under this section by the amount set in G.S. 105-522. This reduction does not
42 affect the amount allocated to municipalities under this section."

43 **SECTION 3.(f)** Article 44 of Chapter 105 of the General Statutes is
44 amended by adding two new sections to read:

1 **"§ 105-522. City hold harmless for repealed local taxes.**

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

3 (1) Eligible municipality. – A municipality that was incorporated on or
4 before October 1, 2008, and receives a distribution of sales and use
5 taxes under G.S. 105-472.

6 (2) Hold harmless amount. – Fifty percent (50%) of the amount of sales
7 and use tax revenue distributed under Article 40 of this Chapter to the
8 municipality for a month, other than revenue from the sale of food that
9 is subject to local tax but is exempt from State tax under
10 G.S. 105-164.13B.

11 (b) Requirement. – A county is required to hold the eligible municipalities in the
12 county harmless from the repeal of the local sales and use taxes formerly imposed under
13 this Article. The Secretary must add an eligible municipality's hold harmless amount to
14 the amount distributed to the municipality under this Subchapter. To obtain the revenue
15 for the hold harmless distribution, the Secretary must reduce each county's monthly
16 allocation under G.S. 105-472(b) or under Chapter 1096 of the 1967 Session Laws by
17 the hold harmless amounts for the municipalities in that county.

18 **"§ 105-523. County hold harmless for repealed local taxes.**

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

20 (1) Hold harmless threshold. – The amount of a county's Medicaid service
21 costs assumed by the State under G.S. 108A-54 for the fiscal year.

22 (2) Repealed sales tax amount. – Fifty percent (50%) of the amount of
23 sales and use tax revenue distributed to a county under Article 40 of
24 this Chapter, other than revenue from the sale of food that is subject to
25 local tax but is exempt from State tax under G.S. 105-164.13B.

26 (b) Requirement. – If a county's repealed sales tax amount for a fiscal year
27 exceeds the county's hold harmless threshold for that fiscal year, the State is required to
28 hold the county harmless for the difference by paying the amount of the difference to
29 the county. The Secretary must withhold from sales and use tax collections under
30 Article 5 of this Chapter the amount needed to make the hold harmless payments
31 required by this section.

32 (c) Method. – The Secretary must estimate a county's repealed sales tax amount
33 and hold harmless threshold for a fiscal year to determine if the county is eligible for a
34 hold harmless payment. The Secretary must send to an eligible county with the
35 distribution made under G.S. 105-472 for March of that year an amount equal to ninety
36 percent (90%) of its estimated hold harmless payment. At the end of each fiscal year,
37 the Secretary must determine the difference between a county's repealed sales tax
38 amount and its hold harmless threshold for that year. The Secretary must send by
39 August 15 the remainder of the county's hold harmless payment for the fiscal year that
40 ended on June 30. The Secretary of the Department of Human Resources must give the
41 Secretary of Revenue the data needed to determine a county's hold harmless threshold.

42 (d) Sunset. – This section expires July 1, 2017."

43 **SECTION 3.(g)** G.S. 105-164.4(a) reads as rewritten:

1 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
2 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
3 ~~four percent (4%) and one-quarter percent (4.25%).~~"

4 **SECTION 3.(h)** G.S. 105-164.44F(a) reads as rewritten:

5 "(a) Amount. – The Secretary must distribute part of the taxes imposed by
6 G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service. The
7 Secretary must make the distribution within 75 days after the end of each calendar
8 quarter. The amount the Secretary must distribute is the following percentages of the net
9 proceeds of the taxes collected during the quarter:

- 10 (1) ~~Nineteen and forty-two one-hundredths percent (19.42%)~~ Eighteen and
11 seventy one-hundredths percent (18.70%) minus two million six
12 hundred twenty thousand nine hundred forty-eight dollars
13 (\$2,620,948), must be distributed to cities in accordance with this
14 section. The deduction is one-fourth of the annual amount by which
15 the distribution to cities of the gross receipts franchise tax on telephone
16 companies, imposed by former G.S. 105-20, was required to be
17 reduced beginning in fiscal year 1995-96 as a result of the "freeze
18 deduction."
19 (2) ~~Eight percent (8%)~~ Seven and seven-tenths percent (7.7%) must be
20 distributed to counties and cities as provided in G.S. 105-164.44I."

21 **SECTION 3.(i)** G.S. 105-164.44I(a) reads as rewritten:

22 "(a) Distribution. – The Secretary must distribute to the counties and cities part of
23 the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and
24 G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the
25 distribution within 75 days after the end of each calendar quarter. The amount the
26 Secretary must distribute is the sum of the revenue listed in this subsection. The
27 Secretary must distribute two million dollars (\$2,000,000) of this amount in accordance
28 with subsection (b) of this section and the remainder in accordance with subsections (c)
29 and (d) of this section. The revenue to be distributed under this section consists of the
30 following:

- 31 (1) The amount specified in G.S. 105-164.44F(a)(2).
32 (2) ~~Twenty five percent (25%)~~ Twenty-three and six-tenths percent
33 (23.6%) of the net proceeds of the taxes collected during the quarter on
34 video programming, other than on direct-to-home satellite service.
35 (3) ~~Thirty-seven and five-tenths percent (37.5%)~~ one-tenth percent
36 (37.1%) of the net proceeds of the taxes collected during the quarter on
37 direct-to-home satellite service."

38 **SECTION 3.(j)** This section becomes effective October 1, 2008.
39 Subsections (a) and (g) of this section apply to sales occurring on or after that date. The
40 remaining subsections apply to distributions for months beginning on or after that date.

41 **SECTION 4.(a)** G.S. 105-515, 105-516, 105-517, 105-518, 105-519, and
42 105-520 are repealed.

43 **SECTION 4.(b)** G.S. 105-501 reads as rewritten:

44 "**§ 105-501. Distribution of additional taxes.**"

1 (a) Method. – The Secretary ~~shall, must,~~ on a monthly basis, allocate the net
2 proceeds of the additional one-half percent (1/2%) sales and use taxes ~~levied~~ collected
3 in that county under this Article to the taxing counties on a per capita basis according to
4 the most recent annual population estimates certified to the Secretary by the State
5 Budget Officer. The Secretary shall then adjust the amount allocated to each county as
6 provided in G.S. 105-486(b). The amount allocated to each taxing county shall then be
7 divided among Article. If the Secretary collects taxes under this Article in a month and
8 the taxes cannot be identified as being attributable to a particular taxing county, the
9 Secretary must allocate the net proceeds of these taxes among the taxing counties in
10 proportion to the amount of taxes collected in each county under this Article in that
11 month.

12 The Secretary must divide and distribute the funds allocated to a taxing county each
13 month under this section between the county and the municipalities located in the
14 county in accordance with the method by which the one percent (1%) sales and use
15 taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of the
16 1967 Session Laws are distributed. No municipality may receive any funds under this
17 section if it was incorporated with an effective date of on or after January 1, 2000, and
18 is disqualified from receiving funds under G.S. 136-41.2. No municipality may receive
19 any funds under this section, incorporated with an effective date on or after January 1,
20 2000, unless a majority of the mileage of its streets are open to the public. The previous
21 sentence becomes effective with respect to distribution of funds on or after July 1, 1999.

22 (b) Deductions. – In determining the net proceeds of the tax to be distributed, the
23 Secretary ~~shall~~ must deduct from the collections to be allocated an amount equal to
24 one-twelfth of the costs during the preceding fiscal year of:

- 25 (1) The Department of Revenue in performing the duties imposed by
26 G.S. 105-275.2 and by Article 15 of this Chapter.
27 (1a) Seventy percent (70%) of the expenses of the Department of Revenue
28 in performing the duties imposed by Article 2D of this Chapter.
29 (2) The Property Tax Commission.
30 (3) The School of Government at the University of North Carolina at
31 Chapel Hill in operating a training program in property tax appraisal
32 and assessment.
33 (4) The personnel and operations provided by the Department of State
34 Treasurer for the Local Government Commission."

35 **SECTION 4.(c)** G.S. 105-522(a), as enacted by Section 3(f) of this act, reads
36 as rewritten:

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

- 38 (1) Eligible municipality. – A municipality that was incorporated on or
39 before October 1, 2008, and receives a distribution of sales and use
40 taxes under G.S. 105-472.
41 (2) Hold harmless amount. – The sum of the following:
42 a. Fifty percent (50%) of the amount of sales and use tax revenue
43 distributed under Article 40 of this Chapter to the municipality
44 for a month, other than revenue from the sale of food that is

1 subject to local tax but is exempt from State tax under
2 G.S. 105-164.13B.

- 3 b. Twenty-five percent (25%) of the amount of sales and use tax
4 revenue distributed under Article 39 of this Chapter or under
5 Chapter 1096 of the 1967 Session Laws, other than revenue
6 from the sale of food that is subject to local tax but is exempt
7 from State tax under G.S. 105-164.13B."

8 **SECTION 4.(d)** G.S. 105-523(a), as enacted by Section 3(f) of this act,
9 reads as rewritten:

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

11 (1) Hold harmless threshold. – The amount of a county's Medicaid service
12 costs assumed by the State under G.S. 108A-54 for the fiscal year.

13 (2) Repealed sales tax amount. – The sum of the following:

- 14 a. Fifty percent (50%) of the amount of sales and use tax revenue
15 distributed to a county under Article 40 of this Chapter, other
16 than revenue from the sale of food that is subject to local tax but
17 is exempt from State tax under G.S. 105-164.13B.

- 18 b. Twenty-five percent (25%) of the amount of sales and use tax
19 revenue distributed under Article 39 of this Chapter or under
20 Chapter 1096 of the 1967 Session Laws, other than revenue
21 from the sale of food that is subject to local tax but is exempt
22 from State tax under G.S. 105-164.13B."

23 **SECTION 4.(e)** The title of Article 44 of Chapter 105 of the General
24 Statutes reads as rewritten:

25 "Article 44.

26 ~~"Third One Half Cent (1/2¢) Local Government Sales and Use Tax. Local Government~~
27 ~~Hold Harmless Provisions."~~

28 **SECTION 4.(f)** G.S. 105-164.4(a), as amended by Section 3(g) of this act,
29 reads as rewritten:

30 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
31 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
32 four and ~~one quarter percent (4.25%).~~ one-half percent (4.5%)."

33 **SECTION 4.(g)** G.S. 105-164.44F(a), as amended by Section 3(h) of this
34 act, reads as rewritten:

35 "(a) Amount. – The Secretary must distribute part of the taxes imposed by
36 G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service. The
37 Secretary must make the distribution within 75 days after the end of each calendar
38 quarter. The amount the Secretary must distribute is the following percentages of the net
39 proceeds of the taxes collected during the quarter:

- 40 (1) ~~Eighteen and seven one tenths percent (18.70%)~~ Eighteen and
41 thirty-four one-hundredths percent (18.34%) minus two million six
42 hundred twenty thousand nine hundred forty-eight dollars
43 (\$2,620,948), must be distributed to cities in accordance with this
44 section. The deduction is one-fourth of the annual amount by which

1 the distribution to cities of the gross receipts franchise tax on telephone
2 companies, imposed by former G.S. 105-20, was required to be
3 reduced beginning in fiscal year 1995-96 as a result of the "freeze
4 deduction."

- 5 (2) Seven and ~~seven one-tenths percent (7.7%)~~ fifty-six one-hundredths
6 percent (7.56%) must be distributed to counties and cities as provided
7 in G.S. 105-164.44I."

8 **SECTION 4.(h)** G.S. 105-164.44I(a), as amended by Section 3(i) of this act,
9 reads as rewritten:

10 "(a) Distribution. – The Secretary must distribute to the counties and cities part of
11 the taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and
12 G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the
13 distribution within 75 days after the end of each calendar quarter. The amount the
14 Secretary must distribute is the sum of the revenue listed in this subsection. The
15 Secretary must distribute two million dollars (\$2,000,000) of this amount in accordance
16 with subsection (b) of this section and the remainder in accordance with subsections (c)
17 and (d) of this section. The revenue to be distributed under this section consists of the
18 following:

- 19 (1) The amount specified in G.S. 105-164.44F(a)(2).
20 (2) Twenty-three and ~~six one-tenths percent (23.6%)~~ sixty-one
21 one-hundredths percent (23.61%) of the net proceeds of the taxes
22 collected during the quarter on video programming, other than on
23 direct-to-home satellite service.
24 (3) ~~Thirty-seven and one-tenths percent (37.1%)~~ Thirty-five and forty-two
25 one-hundredths percent (35.42%) of the net proceeds of the taxes
26 collected during the quarter on direct-to-home satellite service."

27 **SECTION 4.(i)** This section becomes effective October 1, 2009.
28 Subsections (a) and (f) of this section apply to sales occurring on or after that date.
29 Subsections (b), (c), (d), (g), and (h) of this section apply to distributions for months
30 beginning on or after that date.

31 **SECTION 5.(a)** G.S. 105-228.5(b1) reads as rewritten:

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

- 37 (1) The premiums are properly reported and properly allocated as being
38 received from business done in some other nation, territory, state, or
39 states.
40 (2) The premiums are from policies written in federal areas for persons in
41 military service who pay premiums by assignment of service pay.

42 Gross premiums from business done in this State in the case of life insurance
43 contracts, including supplemental contracts providing for disability benefits, accidental
44 death benefits, or other special ~~benefits that are not annuities,~~ benefits, means all

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

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

28 **SECTION 5.(b)** G.S. 105-228.5(c) reads as rewritten:

29 "(c) Exclusions. ~~Every insurer, in computing the premium tax, shall exclude all~~
30 ~~of the following from the gross amount of premiums, and the gross amount of excluded~~
31 The following premiums is are exempt from the tax imposed by this section:

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

1 **SECTION 5.(c)** Subsections (a) and (b) of this section become effective for
2 taxable years beginning on or after January 1, 2009.

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

5 **"§ 105-151.31. Earned income tax credit.**

6 (a) Credit. – An individual who meets the following requirements in a taxable
7 year is allowed an earned income tax credit:

8 (1) The individual claims an earned income tax credit under section 32 of
9 the Code.

10 (2) The filing status of the individual is head of household or married
11 filing joint.

12 (3) The individual claims an exemption under Section 152 of the Code.

13 (b) Amount. The amount of the credit is equal to five percent (5%) of the
14 amount of the earned income tax credit for which the individual qualifies under section
15 32 of the Code. A nonresident or part-year resident who claims the credit allowed by
16 this section must reduce the amount of the credit by multiplying it by the fraction
17 calculated under G.S. 105-134.5(b) or (c), as appropriate.

18 (c) Credit Refundable. – If the credit allowed by this section exceeds the amount
19 of tax imposed by this Part for the taxable year reduced by the sum of all credits
20 allowable, the Secretary must refund the excess to the taxpayer. The refundable excess
21 is governed by the provisions governing a refund of an overpayment by the taxpayer of
22 the tax imposed in this Part. Section 3507 of the Code, Advance Payment of Earned
23 Income Credit, does not apply to the credit allowed by this section. In computing the
24 amount of tax against which multiple credits are allowed, nonrefundable credits are
25 subtracted before refundable credits.

26 (c) Sunset. – This section is repealed effective for taxable years beginning on or
27 after January 1, 2013."

28 **SECTION 6.(b)** G.S. 105-160.3(b) reads as rewritten:

29 "(b) The following credits are not allowed to an estate or trust:

30 (1) G.S. 105-151. Tax credits for income taxes paid to other states by
31 individuals.

32 (2) G.S. 105-151.11. Credit for child care and certain employment-related
33 expenses.

34 (3) G.S. 105-151.18. Credit for the disabled.

35 (4) G.S. 105-151.24. Credit for children.

36 (5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.

37 (6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.

38 (7) G.S. 105-151.28. Credit for long-term care insurance.

39 (8) G.S. 105-151.30. Credit for recycling oyster shells.

40 (9) G.S. 105-151.31. Earned income tax credit."

41 **SECTION 6.(c)** This section is effective for taxable years beginning on or
42 after January 1, 2008.

43 **SECTION 7.** This act does not affect the rights or liabilities of the State, a
44 county, a taxpayer, or another person arising under a statute amended or repealed by this

1 section before the effective date of its amendment or repeal; nor does it affect the right
2 to any refund or credit of a tax that accrued under the amended or repealed statute
3 before the effective date of its amendment or repeal.

4 **SECTION 8.** Except as otherwise provided, this act is effective when it
5 becomes law.