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HOUSE BILL 1016\*  
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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 NONREFUNDABLE 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

1 ~~for the special purpose of medical assistance as provided in this Part, in an amount~~  
2 ~~sufficient to cover each county's share of such assistance."~~

3 **SECTION 1.(d)** Subsection (a) of this section becomes effective October 1,  
4 2007, and applies to Medicaid costs incurred on or after that date. Subsection (b) of this  
5 section becomes effective July 1, 2008, and applies to Medicaid costs incurred on or  
6 after that date. Subsection (c) of this section becomes effective July 1, 2009, and applies  
7 to Medicaid costs incurred on or after that date.

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

12 (1) If the amount of a county's Medicaid payments that are assumed by the  
13 State for fiscal year 2007-2008 under Section 1(a) of this act exceeds  
14 the allocation the county would receive under this section based on its  
15 per average daily membership, the amount of the county's allocation  
16 from the Fund is reduced by sixty percent (60%) of the amount the  
17 county would receive based on its average daily membership.

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

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

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

34 **SECTION 3.(a)** Notwithstanding the provisions of Article 44 of Chapter  
35 105 of the General Statutes that authorize one-half percent (1/2%) local sales and use  
36 taxes, the tax rate for a tax imposed under that Article for the period October 1, 2008,  
37 through September 30, 2009, is one-quarter percent (1/4%) rather than one-half percent  
38 (1/2%). A resolution enacted by a county under Article 44 before October 1, 2008, to  
39 levy one-half percent (1/2%) local sales and use tax is considered to be a resolution  
40 authorizing the levy of one-fourth percent (1/4%) local sales and use taxes under that  
41 Article, as amended by this section.

42 **SECTION 3.(b)** G.S. 105-520 reads as rewritten:

43 "**§ 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 claims for the taxable year an earned income tax  
7 credit under section 32 of the Code is allowed a credit against the tax imposed by this  
8 Part equal to twelve percent (12%) of the amount of credit the individual qualified for  
9 under section 32 of the Code.

10           (b) Limitations. – A nonresident or part-year resident who claims the credit  
11 allowed by this section shall reduce the amount of the credit by multiplying it by the  
12 fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed  
13 under this section may not exceed the amount of tax imposed by this Part for the taxable  
14 year reduced by the sum of all credits allowed, except payments of tax made by or on  
15 behalf of the taxpayer.

16           (c) Sunset. – This section is repealed effective for taxable years beginning on or  
17 after January 1, 2014."

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

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

- 20           (1) G.S. 105-151. Tax credits for income taxes paid to other states by  
21 individuals.
- 22           (2) G.S. 105-151.11. Credit for child care and certain employment-related  
23 expenses.
- 24           (3) G.S. 105-151.18. Credit for the disabled.
- 25           (4) G.S. 105-151.24. Credit for children.
- 26           (5) G.S. 105-151.26. Credit for charitable contributions by nonitemizers.
- 27           (6) Repealed by Session Laws 2004-170, s. 17, effective August 2, 2004.
- 28           (7) G.S. 105-151.28. Credit for long-term care insurance.
- 29           (8) G.S. 105-151.30. Credit for recycling oyster shells.
- 30           (9) G.S. 105-151.31. Earned income tax credit."

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

33           **SECTION 7.** This act does not affect the rights or liabilities of the State, a  
34 county, a taxpayer, or another person arising under a statute amended or repealed by this  
35 section before the effective date of its amendment or repeal; nor does it affect the right  
36 to any refund or credit of a tax that accrued under the amended or repealed statute  
37 before the effective date of its amendment or repeal.

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