GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

HOUSE BILL 1016*
Committee Substitute Favorable 4/23/07
Third Edition Engrossed 4/26/07
Senate Finance Committee Substitute Adopted 7/10/07
Fifth Edition Engrossed 7/12/07

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:


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.

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

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

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

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

"§ 105-521. Transitional local government hold harmless for repealed reimbursements.

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

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

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

(3) Repealed reimbursement amount. – The total amount a local government would have been entitled to receive during the 2002-2003 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2, 105-277.001, and 105-277.1A, if the Governor had not withheld any distributions under those sections.

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

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

b. Twenty-five percent (25%) of the amount of sales and use tax revenue distributed under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, other than revenue from the sale of food that is subject to local tax but is exempt from State tax under G.S. 105-164.13B."
(4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax authorized in Article 39 of this Chapter and in Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local sales and use tax authorized in Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales and use tax authorized in Article 42 of this Chapter.

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

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

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

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

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

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

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

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

SECTION 3.(f) Article 44 of Chapter 105 of the General Statutes is amended by adding two new sections to read:
§ 105-522. City hold harmless for repealed local taxes.

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

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

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

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

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

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

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

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

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

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

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

SECTION 3.(g) G.S. 105-164.4(a) reads as rewritten:
"(a) A privilege tax is imposed on a retailer at the following percentage rates of the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is four percent (4%) and one-quarter percent (0.25%)."

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

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

1. Nineteen and forty-two one-hundredths percent (19.42%) Eighteen and seventy-one-hundredths percent (18.70%) minus two million six hundred twenty thousand nine hundred forty-eight dollars ($2,620,948), must be distributed to cities in accordance with this section. The deduction is one-fourth of the annual amount by which the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-20, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction."

2. Eight percent (8%) Seven and seven-tenths percent (7.7%) must be distributed to counties and cities as provided in G.S. 105-164.44I."

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

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

1. The amount specified in G.S. 105-164.44F(a)(2).

2. Twenty-five percent (25%) Twenty-three and six-tenths percent (23.6%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.

3. Thirty-seven and five-tenths percent (37.5%) one-tenth percent (37.1%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service."

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

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

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

"§ 105-501. Distribution of additional taxes."
(a) Method. – The Secretary shall, must, on a monthly basis, allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied-collected in that county under this Article to the taxing counties on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary shall then adjust the amount allocated to each county as provided in G.S. 105-486(b). The amount allocated to each taxing county shall then be divided among Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.

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

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

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

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

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

1. Eligible municipality. – A municipality that was incorporated on or before October 1, 2008, and receives a distribution of sales and use taxes under G.S. 105-472.
2. Hold harmless amount. – The sum of the following:
   a. Fifty percent (50%) of the amount of sales and use tax revenue distributed under Article 40 of this Chapter to the municipality for a month, other than revenue from the sale of food that is
subject to local tax but is exempt from State tax under G.S. 105-164.13B.

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

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

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

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

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

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

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

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

"Article 44.
Third One-Half Cent (1/2¢) Local Government Sales and Use Tax. Local Government Hold Harmless Provisions."

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

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

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

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

(1) Eighteen and seven one-tenths percent (18.70%) – Eighteen and thirty-four one-hundredths percent (18.34%) minus two million six hundred twenty thousand nine hundred forty-eight dollars ($2,620,948), must be distributed to cities in accordance with this section. The deduction is one-fourth of the annual amount by which
the distribution to cities of the gross receipts franchise tax on telephone companies, imposed by former G.S. 105-20, was required to be reduced beginning in fiscal year 1995-96 as a result of the "freeze deduction."

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

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

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

(1) The amount specified in G.S. 105-164.44F(a)(2).

(2) Twenty-three and six one-tenths percent (23.6%) sixty-one one-hundredths percent (23.61%) of the net proceeds of the taxes collected during the quarter on video programming, other than on direct-to-home satellite service.

(3) Thirty-seven and one-tenths percent (37.1%) Thirty-five and forty-two one-hundredths percent (35.42%) of the net proceeds of the taxes collected during the quarter on direct-to-home satellite service."

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

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

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

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

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

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

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

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

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

1. All premiums received on or after July 1, 1973, from policies or contracts issued in connection with the funding of a pension, annuity, or profit-sharing plan qualified or exempt under section 401, 403, 404, 408, 457, or 501 of the Code as defined in G.S. 105-228.90.

2. Premiums or considerations received from annuities, as defined in G.S. 58-7-15.

3. Funds or considerations received in connection with funding agreements, as defined in G.S. 58-7-16.

4. The following premiums, to the extent federal law prohibits their taxation under this Article:
   b. Medicaid or Medicare premiums."
SECTION 5.(c) Subsections (a) and (b) of this section become effective for taxable years beginning on or after January 1, 2009.

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

§ 105-151.31. Earned income tax credit.

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

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

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

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

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

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

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

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

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

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

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

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

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

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


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

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

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

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

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

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