

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 773

Short Title: Education Opportunity & Excellence Act of 2001. (Public)

Sponsors: Senators Albertson; Ballance, Clodfelter, Dannelly, Gulley, Hoyle, Kinnaird, Lucas, Martin of Guilford, Shaw of Cumberland, Soles, Warren, and Weinstein.

Referred to: Finance.

April 2, 2001

A BILL TO BE ENTITLED

1
2 AN ACT TO PROVIDE ADDITIONAL FUNDING FOR EDUCATIONAL
3 OPPORTUNITIES FOR AT-RISK STUDENTS BY RAISING THE STATE
4 SALES AND USE TAX BY ONE-HALF CENT AND TO PROVIDE
5 ADDITIONAL FUNDING FOR PUBLIC SCHOOL CONSTRUCTION AT THE
6 LOCAL LEVEL WITHOUT INCREASING PROPERTY TAXES BY
7 AUTHORIZING COUNTIES TO LEVY AN ADDITIONAL ONE-HALF CENT
8 LOCAL SALES AND USE TAX.

9 The General Assembly of North Carolina enacts:

10 **PART 1. STATE SALES AND USE TAX.**

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

13 "(a) A privilege tax is imposed on a retailer at the following percentage rates of
14 the retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is
15 four percent (4%) and one-half percent (4.5%)."

16 **SECTION 2.** Part 8 of Article 5 of Chapter 105 of the General Statutes is
17 amended by adding a new section to read:

18 "**§ 105-164.44F. Transfer to Department of Public Instruction for the Basic**
19 **Education Opportunities Fund.**

20 Each fiscal year, the Secretary shall transfer at the end of each quarter from the State
21 sales and use tax net collections received by the Department of Revenue under Article 5
22 of Chapter 105 of the General Statutes to the Basic Education Opportunities Fund
23 created in G.S. 115C-495, one-fourth of three hundred ninety-nine million five hundred
24 thousand dollars (\$399,500,000) plus or minus the percentage of that amount by which
25 the total collection of State sales and use taxes increased or decreased during the
26 preceding fiscal year."

1 **SECTION 3.** Subchapter VII of Chapter 115C of the General Statutes is
2 amended by adding a new Article to read:

3 "Article 35A.

4 "Basic Education Opportunities Fund.

5 **"§ 115C-495. Creation of Fund; administration.**

6 (a) The Basic Education Opportunities Fund is created in the Department of
7 Public Instruction.

8 (b) Each fiscal year, at the end of each quarter, the Secretary of Revenue shall
9 deposit with the State Treasurer in the Basic Education Opportunities Fund the amount
10 required under G.S. 105-164.44F. All funds deposited in the Basic Education
11 Opportunities Fund shall be invested as provided in G.S. 147-69.2 and G.S. 147-69.3.

12 (c) The Fund shall be administered by the State Board of Education. The State
13 Board of Education may make grants from the Fund for one or more of the following:

14 (1) To meet the constitutional obligation to provide all students with a
15 sound basic education.

16 (2) To improve the academic performance of children identified as at risk
17 of academic failure.

18 (3) To reduce school discipline and behavioral problems.

19 (4) To reduce student dropout rates.

20 **"§ 115C-496. Grants from the Fund.**

21 The board of education and the boards of county commissioners of the county in
22 which the local school administrative unit is located in whole or in part shall apply
23 jointly for a grant from the Fund to meet a particular need in the local school
24 administrative unit. Grants may be made only for projects that address one or more of
25 the purposes specified in G.S. 115-495.

26 The application shall contain information on how the funds requested would be used
27 and how much State money is required for the project. The application shall also
28 include an analysis of the educational needs of the county and a long-range plan for
29 meeting those needs."

30 **PART 2. LOCAL SALES AND USE TAX.**

31 **SECTION 4.** Subchapter VIII of Chapter 105 of the General Statutes is
32 amended by adding a new Article to read:

33 "Article 44.

34 "Third Supplemental Local Government Sales and Use Taxes.

35 **"§ 105-515. Short title.**

36 This Article shall be known as the Third Supplemental Local Government Sales and
37 Use Tax Act.

38 **"§ 105-516. Purpose and intent.**

39 It is the purpose of this Article to afford the counties and cities of this State an
40 opportunity to obtain an added source of revenue with which to meet their growing
41 financial needs and to reduce their reliance on other revenues, such as the property tax
42 and federal revenue sharing, by providing all counties of the State that are subject to this
43 Article with authority to levy one-half cent (1/2¢) sales and use taxes.

44 **"§ 105-517. Limitations.**

1 This Article applies only to counties that levy the first one-cent (1¢) sales and use
2 tax under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws,
3 the first one-half cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and
4 the second one-half cent (1/2¢) local sales and use tax under Article 42 of this Chapter.

5 **"§ 105-518. Levy.**

6 (a) Authority. – If the majority of those voting in a referendum held pursuant to
7 this Article vote for the levy of the taxes, the board of commissioners of the county
8 may, by resolution, levy one percent (1%) local sales and use taxes in addition to any
9 other State and local sales and use taxes levied pursuant to law.

10 (b) Vote. – The board of commissioners of a county may direct the county board
11 of elections to conduct an advisory referendum on the question of whether to levy local
12 one percent (1%) sales and use taxes in the county as provided in this Article. The
13 election shall be held on a date jointly agreed upon by the two boards and shall be held
14 in accordance with the procedures of G.S. 163-287.

15 (c) Ballot Question. – The form of the question to be presented on a ballot for a
16 special election concerning the levy of the taxes authorized by this Article shall be:

17 [] FOR [] AGAINST

18 one-half percent (1/2 %) local sales and use taxes, in addition to the current local sales
19 and use taxes.'

20 **"§ 105-519. Administration.**

21 Except as provided in this Article, the adoption, levy, collection, administration,
22 distribution, and repeal of the additional taxes authorized by this Article shall be in
23 accordance with Article 39 of this Chapter.

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

26 **"§ 105-520. Use.**

27 (a) Use. – Except as provided by subsection (c) of this section, one hundred
28 percent (100%) of the net proceeds of the tax authorized by this Article received by a
29 county may be used by the county only for public school capital outlay purposes as
30 defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for
31 these purposes. Except as provided in subsection (c) of this section, fifty percent (50%)
32 of the net proceeds of the tax authorized by this Article received by a municipality may
33 be used by the municipality only for water and sewer capital outlay projects.

34 (b) Nonsupplant Restriction. – It is the purpose of this Article for counties to
35 increase the level of county spending for public school capital outlay and for
36 municipalities to increase the level of municipality spending for water and sewer capital
37 outlay projects above the level of spending before the levy of the tax authorized in this
38 Article. A county or municipality that receives proceeds from a tax levied under this
39 Article must continue to spend for these purposes the same amount of money it would
40 have spent for these purposes if it had not levied the tax.

41 (c) Waiver. – The Local Government Commission may, upon petition by a
42 county or municipality, authorize the entity to use part or all its tax revenue, otherwise
43 restricted by subsection (a) of this section, for any lawful purpose. The petition shall be
44 in the form of a resolution adopted by the board of county commissioners or the

1 governing body of the municipality and transmitted to the Local Government
2 Commission. The petition shall demonstrate that the county can provide for its public
3 school capital needs or that the municipality can provide for its water and sewer capital
4 needs without restricting the use of part or all of the designated amount of the additional
5 one-half percent (1/2%) sales and use tax revenue for that purpose.

6 In making its decision, the Local Government Commission shall consider
7 information contained in the petition concerning not only the public school capital needs
8 of the county or the water and sewer capital needs of the municipality, but also the other
9 capital needs of the petitioning county or municipality. The Commission may also
10 consider information from sources other than the petition. The Commission shall issue a
11 written decision on each petition stating the findings of the Commission concerning the
12 public school capital needs of the petitioning county or the water and sewer capital
13 needs of the municipality and the percentage of revenue otherwise restricted by
14 subsection (a) of this section that may be used by the petitioning county or municipality
15 for any lawful purpose.

16 Decisions of the Commission allowing counties or municipalities to use a percentage
17 of their tax revenue that would otherwise be restricted under subsection (a) of this
18 section for any lawful purpose are final and shall continue in effect until the restrictions
19 imposed by that subsection expire. A county or municipality whose petition is denied, in
20 whole or in part, by the Commission may subsequently submit a new petition to the
21 Commission."

22 **SECTION 5.** G.S. 159-11 is amended by adding a new subsection to read:

23 "(e) In each year in which a general reappraisal of real property has been conducted,
24 the budget officer shall include in the budget, for comparison purposes, a statement of
25 the revenue-neutral property tax rate for the budget of the local government unit and for
26 the budgets of every other unit for which it collects taxes. The revenue-neutral property
27 tax rate is the rate that is estimated to produce revenue for the next fiscal year equal to
28 the revenue that was produced for the current fiscal year."

29 **SECTION 6.** G.S. 159-12(a) reads as rewritten:

30 "(a) On the same day that ~~he~~the budget officer submits the budget to the
31 governing board, the budget officer shall file a copy of it in the office of the clerk to the
32 board where it shall remain available for public inspection until the budget ordinance is
33 adopted. The clerk shall make a copy of the budget available to all news media in the
34 county. ~~He~~The budget officer shall also publish a statement that the budget has been
35 submitted to the governing board, and is available for public inspection in the office of
36 the clerk to the board. The statement shall also give notice of the time and place of the
37 budget hearing required by subsection (b) of this ~~section~~section, and, in each year in
38 which a general appraisal for real property has been conducted, the revenue-neutral tax
39 rate for the budget of the local government unit."

40 **SECTION 7.** A tax levied under Article 44 of Chapter 105 of the General
41 Statutes, as enacted by this act, does not apply to construction materials purchased to
42 fulfill a lump-sum or unit-price contract entered into or awarded before the effective
43 date of the levy or entered into or awarded pursuant to a bid made before the effective

1 date of the levy when the construction materials would otherwise be subject to the tax
2 levied under Article 44 of Chapter 105 of the General Statutes.

3 **SECTION 8.** Sections 1 and 3 of this act become effective July 1, 2002, and
4 apply to sales made on or after that date. Section 2 of this act becomes effective
5 October 1, 2002. The remainder of this act is effective when it becomes law. A local
6 sales and use tax levied under Article 44 of Chapter 105 of the General Statutes, enacted
7 pursuant to Section 4 of this act, may not become effective earlier than July 1, 2002.