GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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HOUSE BILL 1165

Short Title: Incentives to Increase Charitable Giving.	(Public)
Sponsors: Representatives McMahan, Bowie, Culpepper, Daughtry, Daughtry, Aldridge, Alexander, Allred, Baker, Brawley, J. Brown, Buchanan, Crawford, Cummings, Decker, Eddins, Gardner, Grady, Hiatt, Hill, Howard Kiser, McComas, G. Miller, Pate, Preston, Rayfield, Sexton, Sharpe, Shuber Tolson, Watson, and Weatherly.	Cocklereece, l, Ives, Justus,
Referred to: Finance.	

May 15, 1996

1	A BILL TO BE ENTITLED
2	AN ACT TO INCREASE GIVING TO CHARITABLE NONPROFIT
3	ORGANIZATIONS BY EXEMPTING FROM SALES AND USE TAX TANGIBLE
4	PERSONAL PROPERTY THAT IS MANUFACTURED OR PURCHASED FOR
5	RESALE BY A WHOLESALE MERCHANT OR A RETAILER AND THEN
6	DONATED TO A CHARITABLE NONPROFIT ORGANIZATION, BY
7	EXPANDING THE STATE CORPORATE INCOME TAX DEDUCTION FOR
8	CHARITABLE CONTRIBUTIONS, AND BY PROVIDING AN INCOME TAX
9	CREDIT FOR CERTAIN CHARITABLE CONTRIBUTIONS BY INDIVIDUALS
10	WHO CANNOT DEDUCT THE CONTRIBUTIONS BECAUSE THEY DO NOT
11	ITEMIZE.
12	The General Assembly of North Carolina enacts:
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14	PART I. SALES TAX.

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Section 1.1. G.S. 105-164.13 is amended by adding a new subdivision to read:

"(42) Tangible personal property that is purchased by a retailer for resale or is manufactured or purchased by a wholesale merchant for resale and then withdrawn from inventory and donated by the retailer or wholesale merchant to a nonprofit organization, contributions to which are deductible as charitable contributions for federal income tax purposes."

Sec. 1.2. G.S. 105-164.13 (13a) and (31b) are repealed.

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PART II. CORPORATE INCOME TAX.

Sec. 2.1. G. S. 105-130.9 reads as rewritten:

"§ 105-130.9. Contributions.

Contributions shall be allowed as a deduction to the extent and in the manner provided as follows: (a) North Carolina Corporations. – Corporations that do not allocate a part of their total net income outside this State may deduct the following contributions to the extent allowed in this section:

- (1) Most Charitable Contributions. Charitable contributions as defined in section 170(c) of the Code, exclusive of other than contributions allowed in subdivision (2) of this section, shall be allowed as a deduction to the extent provided herein.—in this section. The amount allowed as a deduction hereunder shall be limited to an amount not in excess of five percent (5%)—may not exceed ten percent (10%) of the corporation's net income as computed without the benefit of this subdivision or subdivision (2) of this section. Provided, that a carryover of contributions shall not be allowed and that contributions made to North Carolina donees by corporations allocating a part of their total net income outside this State shall not be allowed under this subdivision, but shall be allowed under subdivision (3) of this section.
- Contributions to North Carolina Governments and Educational (2) Institutions. – Contributions by any corporation to the following entities shall be allowed as a deduction: the State of North Carolina, any of its institutions, instrumentalities, or agencies, any county of this State, its institutions, instrumentalities, or agencies, any municipality of this State, its institutions, instrumentalities, or agencies, and contributions or gifts by any corporation to any educational institutions located within North Carolina, no part of the net earnings of which inures to the benefit of any private stockholders or dividend. For the purpose of this subdivision, the words term 'educational institution' shall mean includes only an educational institution which that normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where the educational activities are carried on. The words "educational institution" shall be deemed to include all of such-term includes all of the institution's departments, schools, and colleges, a group of "educational institutions" educational institutions, and an organization (corporation, trust, foundation, association or other

without the benefit of this deduction for contributions.-subsection.

entity) organized and operated exclusively to receive, hold, <u>invest invest</u>, and administer property and to make expenditures to or for the sole benefit of an <u>"educational institution"</u> or group of <u>"educational institutions."</u> educational institution.

(3)

(b) <u>Interstate Corporations.</u> — Corporations allocating a part of their total net income outside North Carolina under the provisions of G.S. 105-130.4 shall-may deduct from total income allocable to North Carolina contributions made to North Carolina donees qualified under <u>subdivisions</u> (1) and (2) of this section <u>subdivision</u> (1) or (2) of <u>subsection</u> (a) of this section or made through North Carolina offices or branches of other donees qualified under the above-mentioned those <u>subdivisions</u> of this section; provided, such <u>subdivisions</u>. The deduction for contributions made to North Carolina donees qualified under subdivision (1) of this section <u>shall be limited in amount to five percent</u> (5%) <u>may not</u> exceed ten percent (10%) of the total income allocated to North Carolina as computed

Corporations allocating a part of their total net income outside North Carolina may deduct from net income before allocation under G.S. 105-130.4 contributions made to other donees qualified under subdivision (1) of subsection (a) of this section. This deduction may not exceed ten percent (10%) of the corporation's net income before allocation under G.S. 105-130.4, as computed without the benefit of this subsection.

- (c) Carryforward. If a corporation's deductions allowed under subdivision (a)(1) or subsection (b) of this section exceed the applicable percentage limitation, the corporation may carry the excess forward for the succeeding five years to the extent the amounts carried forward under this subsection plus the amounts deductible under subdivision (a)(1) or subsection (b) of this section for each taxable year do not exceed the percentage limitation for that taxable year. Amounts deductible under subdivision (a)(1) or subsection (b) of this section for the current taxable year shall be taken into account before amounts carried forward under this subsection.
 - (4) The
- (d) <u>Double Benefit Disallowed. The</u> amount of a contribution for which the taxpayer claimed a tax credit pursuant to G.S. 105-130.34 shall not be eligible for a deduction under this section. The amount of the credit claimed with respect to the contribution is not, however, required to be added to income under G.S. 105-130.5(a)(10)."
 - Sec. 2.2. G.S. 105-130.5(b)(5) reads as rewritten:
 - "(5) Contributions or gifts made by any corporation within the income year to the extent provided under G.S. 105-130.9."

PART III. INDIVIDUAL INCOME TAX.

- Sec. 3.1. Division II of Article 4 of Chapter 105 of the General Statutes is amended by adding a new section to read:
- "§ 105-151.26. Credit for charitable contributions by nonitemizers.

A taxpayer who elects the standard deduction under section 63 of the Code for federal tax purposes is allowed as a credit against the tax imposed by this Division an amount equal to seven percent (7%) of the taxpayer's excess charitable contributions. The taxpayer's excess charitable contributions are the amount by which the taxpayer's charitable contributions for the taxable year that would have been deductible under section 170 of the Code if the taxpayer had not elected the standard deduction exceed two percent (2%) of the taxpayer's adjusted gross income as calculated under the Code.

No credit shall be allowed under this section for amounts deducted from gross income in calculating taxable income under the Code or for contributions for which a credit was claimed under G.S. 105-151.12 or G.S. 105-151.14. A nonresident or part-year resident who claims the credit allowed by this section shall reduce the amount of the credit by multiplying it by the fraction calculated under G.S. 105-134.5(b) or (c), as appropriate. The credit allowed under this section may not exceed the amount of tax imposed by this Division for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

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PART IV. EFFECTIVE DATES.

Sec. 4.1. Parts II and III of this act are effective for taxable years beginning on or after January 1, 1997. The remainder of this act is effective upon ratification.