

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011**

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**HOUSE BILL 619
PROPOSED COMMITTEE SUBSTITUTE H619-PCS80241-RB-42**

Short Title: Job Creation Act of 2011.

(Public)

Sponsors:

Referred to:

April 6, 2011

A BILL TO BE ENTITLED
AN ACT TO STIMULATE ECONOMIC ACTIVITY AND JOB GROWTH BY
TEMPORARILY REDUCING THE INCOME TAX BURDEN ON BUSINESS.

The General Assembly of North Carolina enacts:

SECTION 1. The General Assembly finds that:

- (1) It is the policy of the State of North Carolina to stimulate economic activity and to create new jobs for the citizens of the State by encouraging and promoting the expansion of existing business and industry within the State and by recruiting and attracting new business and industry to the State.
- (2) Both short-term and long-term economic trends at the State, national, and international levels have made the successful implementation of the State's economic development policy and programs both more critical and more challenging; and the decline in the State's traditional industries and the resulting adverse impact upon the State and its citizens have been exacerbated in recent years by adverse national and State economic trends that contribute to the reduction in the State's industrial base and that inhibit the State's ability to sustain or attract new and expanding businesses.
- (3) The economic condition of the State is not static and recent changes in the State's economic condition have created economic distress that requires the enactment of a new program as provided in this act that is designed to stimulate new economic activity and to create new jobs within the State.
- (4) The enactment of this act is necessary to stimulate the economy, facilitate economic recovery, and create new jobs in North Carolina, and this act will promote the general welfare and confer, as its primary purpose and effect, benefits on citizens throughout the State through the creation of new jobs, an enlargement of the overall tax base, an expansion and diversification of the State's industrial base, and an increase in revenue to the State and its political subdivisions.
- (5) The purpose of this act is to stimulate economic activity and to create new jobs within the State.

SECTION 2.(a) G.S. 105-134.1 reads as rewritten:

"§ 105-134.1. Definitions.

The following definitions apply in this Part:



1 (1) Adjusted gross income. – Defined in section 62 of the Code.

2 ~~(1a)~~ Code. – Defined in G.S. 105-228.90.

3 ...

4 ~~(16) Taxable income. – Defined in section 63 of the Code.~~

5 ...

6 ~~(19) This State. – The State of North Carolina."~~

7 **SECTION 2.(b)** G.S. 105-134.5 reads as rewritten:

8 "**§ 105-134.5. North Carolina taxable income defined.**

9 (a) Residents. – For ~~residents of this State, an individual who is a resident of this State,~~
10 the term "North Carolina taxable income" means the taxpayer's ~~taxable income as determined~~
11 ~~under the Code, adjusted as provided in G.S. 105-134.6 and G.S. 105-134.7,~~ adjusted gross
12 income as modified in G.S. 105-134.6.

13 (b) Nonresidents. – For ~~a nonresident individual, individual,~~ the term "North Carolina
14 taxable income" means the taxpayer's ~~taxable income as determined under the Code, adjusted~~
15 ~~as provided in G.S. 105-134.6 and G.S. 105-134.7, multiplied by a fraction the denominator of~~
16 ~~which is the taxpayer's gross income as determined under the Code, adjusted as provided in~~
17 ~~G.S. 105-134.6 and G.S. 105-134.7, and the numerator of which is the amount of that gross~~
18 ~~income, as adjusted,~~ adjusted gross income as modified in G.S. 105-134.6, multiplied by a
19 fraction the denominator of which is the taxpayer's adjusted gross income as modified in
20 G.S. 105-134.6, and the numerator of which is the amount of that adjusted gross income, as
21 modified, that is derived from North Carolina sources and is attributable to the ownership of
22 any interest in real or tangible personal property in this State, is derived from a business, trade,
23 profession, or occupation carried on in this State, or is derived from gambling activities in this
24 State.

25 (c) Part-year Residents. – If an individual was a resident of this State for only part of
26 the taxable year, having moved into or removed from the State during the year, the term "North
27 Carolina taxable income" has the same meaning as in subsection (b) of this section except that
28 the numerator ~~shall include gross income, adjusted as provided in G.S. 105-134.6 and~~
29 ~~G.S. 105-134.7, includes adjusted gross income, as modified under G.S. 105-134.6,~~ derived
30 from all sources during the period the individual was a resident.

31 (d) S Corporations and Partnerships. – In order to calculate the numerator of the
32 fraction provided in subsection ~~(b), (b)~~ of this section, the amount of a shareholder's pro rata
33 share of S Corporation income that is includable in the numerator ~~shall be~~ is the shareholder's
34 pro rata share of the S Corporation's income attributable to the State, as defined in
35 G.S. 105-131(b)(4). In order to calculate the numerator of the fraction provided in subsection
36 **(b) of this section** for a member of a partnership or other unincorporated business ~~with that has~~
37 one or more nonresident members ~~that and~~ operates in one or more other states, the amount of
38 the member's distributive share of income of the business that is includable in the numerator
39 ~~shall be~~ is determined by multiplying the total net income of the business by the ratio
40 ascertained under the provisions of G.S. 105-130.4. As used in this subsection, total net income
41 means the entire gross income of the business less all expenses, taxes, interest, and other
42 deductions allowable under the Code ~~which that~~ were incurred in the operation of the business.

43 (e) Tax Year. – A taxpayer must compute North Carolina taxable income on the basis
44 of the taxable year used in computing the taxpayer's income tax liability under the Code."

45 **SECTION 2.(c)** G.S. 105-134.6, as amended by S.L. 2011-5, reads as rewritten:

46 "**§ 105-134.6. Adjustments to taxable income. Modifications to adjusted gross income.**

47 (a) S Corporations. – Each shareholder's pro rata share of an S Corporation's income is
48 subject to the adjustments provided in this section.

49 ~~(a1)~~ Personal Exemption. – In calculating North Carolina taxable income, a taxpayer
50 may deduct an exemption amount equal to the amount listed in the table below based on the

1 taxpayer's filing status and adjusted gross income. The taxpayer is allowed the same number of
 2 personal exemptions claimed under section 151 of the Code for the taxable year.

<u>Filing Status</u>	<u>Adjusted Gross Income</u>	<u>Personal Exemption</u>
<u>Married, filing jointly</u>	<u>Up to \$100,000</u>	<u>\$2,500</u>
	<u>Over \$100,000</u>	<u>\$2,000</u>
<u>Head of Household</u>	<u>Up to \$80,000</u>	<u>\$2,500</u>
	<u>Over \$80,000</u>	<u>\$2,000</u>
<u>Single</u>	<u>Up to \$60,000</u>	<u>\$2,500</u>
	<u>Over \$60,000</u>	<u>\$2,000</u>
<u>Married, filing separately</u>	<u>Up to \$50,000</u>	<u>\$2,500</u>
	<u>Over \$50,000</u>	<u>\$2,000</u>

13 (a2) Deduction Amount. – In calculating North Carolina taxable income, a taxpayer may
 14 deduct either the standard deduction amount listed in the table below for that taxpayer's filing
 15 status or the itemized deductions amount elected under section 63 of the Code. A taxpayer may
 16 not deduct both the standard deduction amount and the itemized deductions amount.

<u>Filing Status</u>	<u>Standard Deduction</u>
<u>Married, filing jointly</u>	<u>\$6,000</u>
<u>Head of Household</u>	<u>4,400</u>
<u>Single</u>	<u>3,000</u>
<u>Married, filing separately</u>	<u>3,000.</u>

23 (b) Deductions—Other Deductions. – ~~The following deductions from taxable income~~
 24 ~~shall be made in calculating North Carolina taxable income, to the extent each item is included~~
 25 ~~in taxable income.~~In calculating North Carolina taxable income, a taxpayer may deduct any of
 26 the following items to the extent those items are included in the taxpayer's adjusted gross
 27 income.

29 (22) The first fifty thousand dollars (\$50,000) of net business income the
 30 taxpayer receives during the taxable year. For purposes of this subdivision,
 31 the term "business income" does not include income that is considered
 32 passive income under the Code. This subdivision expires for taxable years
 33 beginning on or after January 1, 2014.

34 (c) Additions. – ~~The following additions to taxable income shall be made in calculating~~
 35 ~~North Carolina taxable income, to the extent each item is not included in taxable income.~~In
 36 calculating North Carolina taxable income, a taxpayer must add any of the following items to
 37 the extent those items are not included in the taxpayer's adjusted gross income. For a taxpayer
 38 who deducts the itemized deductions amount under subsection (a2) of this section, the taxpayer
 39 must add any of the following items to the extent those items are included in the itemized
 40 deductions amount.

41 ...
 42 (4) ~~The amount by which the taxpayer's additional standard deduction for aged~~
 43 ~~and blind has been increased for inflation under section 63(c)(4)(A) of the~~
 44 ~~Code plus the amount by which the taxpayer's basic standard deduction,~~
 45 ~~including adjustments for inflation, under the Code exceeds the appropriate~~
 46 ~~amount in the following chart based on the taxpayer's filing status:~~

<u>Filing Status</u>	<u>Standard Deduction</u>
<u>Married filing jointly/Surviving Spouse</u>	<u>\$6,000</u>
<u>Head of Household</u>	<u>4,400</u>
<u>Single</u>	<u>3,000</u>
<u>Married filing separately</u>	<u>3,000</u>

(4a) ~~The amount by which each of the taxpayer's personal exemptions has been increased for inflation under section 151(d)(4)(A) of the Code. This amount is reduced by five hundred dollars (\$500.00) for each personal exemption if the taxpayer's adjusted gross income (AGI), as calculated under the Code, is less than the following amounts:~~

Filing Status	AGI
Married, filing jointly	\$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000.

~~For the purposes of this subdivision, if the taxpayer's personal exemptions have been reduced by the applicable percentage under section 151(d)(3) of the Code, the amount by which the personal exemptions have been increased for inflation is also reduced by the applicable percentage.~~

...
 (11) ~~The amount of the taxpayer's real property tax deduction under section 63(c)(1)(C) of the Code.~~

(12) ~~The amount of the taxpayer's deduction for motor vehicle sales taxes under section 164(a)(6) or section 63(c)(1)(E) of the Code.~~section 164(a)(6) of the Code.

...
 (d) ~~Other Adjustments. – The following adjustments to taxable income shall be made in calculating North Carolina taxable income:~~In calculating North Carolina taxable income, a taxpayer must make the following adjustments to adjusted gross income.

...."

SECTION 2.(d) G.S. 105-134.4 is repealed.

SECTION 2.(e) G.S. 105-151.26 reads as rewritten:

"§ 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~~G.S. 105-134.6(a2) is allowed as a credit against the tax imposed by this Part 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.~~income.

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 Part for the taxable year reduced by the sum of all credits allowed, except payments of tax made by or on behalf of the taxpayer."

SECTION 3. Section 2 of this act becomes effective for taxable years beginning on or after January 1, 2012. The remainder of this act is effective when it becomes law.