

South Carolina General Assembly
117th Session, 2007-2008

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Bill 3567

~~Indicates Matter Stricken~~

Indicates New Matter

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COMMITTEE AMENDMENT AMENDED

May 6, 2008

H. 3567

Introduced by Reps. Rice, Gullick, Cotty and Agnew

S. Printed 5/6/08--S.

Read the first time May 2, 2007.

THE COMMITTEE ON FINANCE

To whom was referred a Bill (H. 3567) to amend Section 12-21-620, Code of Laws of South Carolina, 1976, relating to taxation on cigarettes, so as to increase the amount of tax on each, etc., respectfully

REPORT:

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting words and inserting:

SECTION 1. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

"Section 12-21-625. (A) Effective July 1, 2008, there is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12-21-620(1) in an amount equal to two and one-half cents on each cigarette.

(B) Notwithstanding another provision of law providing for the crediting of the revenues of license or other

taxes, the revenue of the surtax imposed pursuant to this section must be credited as follows:

- (1) each year, five million dollars to the Smoking Prevention and Cessation Trust Fund created pursuant to Section 11-11-220(A); and
 - (2) of the remaining annual revenue, one-half to the Medicaid Trust Fund created pursuant to Section 11-11-220(B) and one-half to the Healthcare Trust Fund created pursuant to Section 11-11-220(C).
- (C) For all purposes of reporting, payment, collection, and enforcement, the surtax imposed by this section is deemed to be imposed pursuant to Section 12-21-620.
- (D) For purposes of this section, "cigarette" means:
- (1) any roll for smoking containing tobacco wrapped in paper or in any substance other than a tobacco leaf; or
 - (2) any roll for smoking containing tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1).
- (E) On January 1, 2010, and every year thereafter, the Department of Revenue shall adjust the additional tax imposed pursuant to this section by the average percentage increase for the last three calendar years, if any, in the medical services component of the Consumer Price Index for All Urban Consumers, as certified by the Board of Economic of Advisors."

SECTION 2. Section 12-21-620 of the 1976 Code is amended to read:

"Section 12-21-620. (A) There shall be levied, assessed, collected, and paid in respect to the articles containing tobacco enumerated in this section the following amounts:

- (1) upon all cigarettes made of tobacco or any substitute for tobacco, three and one-half mills on each cigarette;
- (2) upon all tobacco products, as defined in Section 12-21-800, five percent of the manufacturer's price.

Manufacturer's price as used in this section is the established price at which a manufacturer sells to a wholesaler.

(B) On January 1, 2010, and every year thereafter, the Department of Revenue shall adjust the tax imposed pursuant to this section by the average percentage increase for the last three calendar years, if any, in the medical services component of the Consumer Price Index for All Urban Consumers, as certified by the Board of Economic of Advisors.

(C) As used in this section, "cigarette" means:

- (1) any roll for smoking containing tobacco wrapped in paper or in any substance other than a tobacco leaf; or

(2) any roll for smoking containing tobacco, wrapped in any substance, weighing three pounds per thousand or less, however labeled or named, which because of its appearance, size, type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, or purchased by, consumers as a cigarette described in item (1) of this subsection."

SECTION 3. Article 1, Chapter 11, Title 11 of the 1976 Code is amended by adding:

"Section 11-11-220. (A) There is created in the State Treasury the Smoking Prevention and Cessation Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The trust fund must transfer five million dollars annually to the Department of Health and Environmental Control to administer a statewide smoking prevention and cessation program.

(B) There is created in the State Treasury the Medicaid Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. Except as otherwise provided in this section, the State Treasurer shall transfer the funds to the Department of Health and Human Services quarterly to provide Medicaid services. The funds are supplementary and may not be used to replace general funds appropriated by the General Assembly or other funds used to support Medicaid.

(C) There is created in the State Treasury the Healthcare Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings and interest on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. The trust fund must transfer the appropriate amount of money annually to the Department of Insurance to fund the Palmetto Healthcare Premium Assistance Program.

(D) There is created in the State Treasury the Palmetto Healthcare Safety Net Trust Fund. This fund is separate and distinct from the general fund of the State and all other funds. Earnings on this fund must be credited to it and any balance in this fund at the end of a fiscal year carries forward in the fund in the succeeding fiscal year. Beginning July 1, 2010, and every July first thereafter, the State Treasurer shall make a transfer from the Healthcare Trust Fund to the Palmetto Healthcare Safety Net Fund in an amount determined by the Board of Economic Advisors. The Board of Economic Advisors shall determine the amount to be transferred by calculating the difference between ninety percent of the balance of the fund on July first, excluding any unexpended funds pursuant to Section 38-62-50(B), less the amount of projected premium assistance payments in the following twelve months."

SECTION 4. (A) Beginning no later than March 1, 2009, and with appropriate federal approvals, the Department of Health and Human Services shall use the transfers from the Medicaid Trust Fund to provide Medicaid services to low income families with incomes above fifty percent but no more than one hundred percent of the prevailing federal poverty level. If a balance of funds remains in the Medicaid Trust Fund once the Department of Health and Human Services has offered Medicaid services to low income families up to one hundred percent of the prevailing federal poverty level, then the balance of funds may be used to set the State Children's Health Insurance Program at two hundred fifty percent of the federal poverty level or set the Aged, Blind, and Disabled Program at one hundred thirty-five percent of the federal poverty level. The

Department of Health and Human Services may charge the Medicaid Trust Fund a quarterly administrative fee equal to an amount not to exceed one percent of the amount credited to the Medicaid Trust Fund in the previous quarter.

(B) The Department of Health and Human Services must provide an annual report on the Medicaid Trust Fund to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, and the Study Committee on Healthcare Access and Affordability. The report shall provide, at a minimum, a general description of the services provided and populations served, the number of people served, the average cost per person, the additional administrative costs of the programs funded by Medicaid Trust Fund, and a three-year forecast of the utilization of the fund.

SECTION 5. Title 38 of the 1976 Code is amended by adding:

"CHAPTER 62

Palmetto Healthcare Premium Assistance Program

Section 38-62-10. This chapter may be cited as the 'Palmetto Healthcare Premium Assistance Program'.

Section 38-62-20. For the purposes of this section:

(A) 'Department' means the South Carolina Department of Insurance.

(B) 'Federal poverty level' means the federal poverty level guidelines published annually by the United States Department of Health and Human Services.

(C) 'Health insurer' means an insurance company, a health maintenance organization, a community health plan approved by the Department of Health and Human Services, and any other entity providing health insurance coverage, as defined in Section 38-71-670(6), which is licensed to engage in the business of insurance in this State and which is subject to state insurance regulation; and Medicaid managed care organizations qualified to offer services through the Department of Health and Human Service's Healthy Connections Program.

(D) 'Healthcare Trust Fund' means the Health Care Trust Fund created pursuant to Section 11-11-220(C).

(E) 'Participant' means an individual who has been issued a certificate of eligibility by the Department of Insurance and has purchased a qualifying health insurance plan within ninety days of the date of issue of the certificate.

(F) 'Program' means the Palmetto Healthcare Premium Assistance Program.

(G) 'Qualifying health plan' means any health insurance policy or health benefit plan offered as part of a health insurance policy or plan offered by a health insurer that provides health insurance coverage, as defined in Section 38-71-670(6), the South Carolina HealthNet Program, or a community health plan approved by the Department of Health and Human Services, and has a minimum actuarial value of three thousand dollars adjusted for age and gender.

(H) 'Small employer' means, in connection with a health insurance plan with respect to a calendar year and

a plan year, any person, firm, corporation, partnership, association, or employer, as defined in Section 3(5) of the Employee Retirement Income Security Act of 1974, that is actively engaged in business that, on at least fifty percent of its working days during the preceding calendar year, employed no more than twenty-five eligible employees or employed an average of not more than twenty-five employees on business days during the preceding calendar year, and who employs at least two employees on the first day of the plan year.

Section 38-62-30. Beginning on July 1, 2009, individuals meeting the eligibility requirements of this chapter may receive an average of two thousand dollars of premium assistance actuarially adjusted for age and gender for the purchase of a qualifying health insurance plan. In no case, shall the premium assistance exceed the actual cost of the individual's qualifying health plan.

Section 38-62-40. In order to be entitled to the premium assistance, an individual must receive a certificate of eligibility from the Department of Insurance. The department shall develop the form and manner for a person to apply to the department for a certificate and shall make the form readily available to health insurance agents and other persons authorized to sell health insurance in this State. For purposes of determining the taxpayer's federal poverty level, the department, minimally, shall require a copy of the applicant's state income tax return for the prior year and the applicant's W-2 form. The department shall also require the applicant to sign a verification under oath, subject to penalties of perjury, that the applicant meets the eligibility criteria for the program pursuant to Section 38-62-50. The department shall implement appropriate safeguards and use available existing resources to verify an applicant's uninsured status. The department shall pursue the recoupment of any premium assistance provided to an individual filing a false application.

Section 38-62-50. (A) The department shall issue an applicant a certificate, if the department determines that:

- (1) the person earns at or less than two hundred percent of the federal poverty level;
- (2) the person is a citizen of the United States and has been a resident of this state for the twelve-month period immediately preceding the application;
- (3) the person has not been covered under a health insurance policy for at least twelve consecutive months before the application;
- (4) the person is not eligible for or enrolled in Medicare, Medicaid or any other state or federal government health insurance program;
- (5) the person has not been awarded premium assistance pursuant to this chapter more than twice; and
- (6) the person is between the ages of nineteen and sixty-four.

(B) The department shall issue eligible individuals certificates in the order in which the application is received. The maximum number of eligible individuals receiving premium assistance is reached when the anticipated amount of claims for premium assistance payments reaches ninety percent of the amount of money allocated for premium assistance payments. The Director of the department shall establish a waiting list for applicants that are otherwise qualified for registration but cannot be registered because the maximum number of individuals is reached. The Director shall notify all persons who applied for a certificate and who were not

issued a certificate the reason that they did not receive a certificate and whether they were placed on the waiting list.

Section 38-62-60. The certificate is valid for the twelve months following the purchase of a qualifying health plan, if the plan is purchased within ninety days of the date the certificate was issued.

Section 38-62-70. (A) The department shall develop the form and manner for a person to apply for a renewal certificate and shall make the form readily available to health insurance agents and other persons authorized to sell health insurance in this State. Participants shall be responsible for obtaining and completing the form and forwarding it and any documentation required by the department. The department will process renewal applications along with new applications in accordance with Section 38-62-50. Priority shall be given to renewal applications.

(B) In the case of individually sponsored insurance, sixty days before the expiration of the policy term, the insurer must send the insured a certificate renewal application promulgated by the department. The insured shall be responsible for completing the form and forwarding it and any documentation required by the department.

(C) In the case of employer-sponsored insurance, sixty days before the expiration of the policy term, the employer must send the insured a certificate renewal application promulgated by the department. The insured shall be responsible for completing the form and forwarding it and any documentation required by the department.

(D) The department may only issue a renewal certificate if the applicant remains eligible.

Section 38-62-80. (A) In the case of individually sponsored insurance, the department shall provide the premium assistance directly to the individual's choice of participating qualifying insurers. To obtain the premium assistance, an insurer must present a valid certificate to the department. The release of the premium assistance to the insurer is contingent upon the insurer submitting proof of the individual satisfying his share of the premium liability. In no case, shall the amount paid in premium assistance exceed the total cost of coverage for the individual. The department shall make quarterly premium assistance payments to insurers.

(B)(1) In the case of employer-sponsored insurance, the department shall provide the premium assistance directly to the individual's participating employer. To obtain the premium assistance, an employer must present a valid certificate to the department. A participating small employer must share the premium assistance with the employee in proportion to the percentage of the cost of coverage paid by the employer and the employee. The amount paid in premium assistance to a small employer cannot exceed the total cost of coverage for the employee. The release of the premium assistance to the employer is contingent upon the employer submitting proof of the individual and the small employer satisfying his respective share of the premium liability. The department shall make quarterly premium assistance payments to small employers.

(2) If the covered individual ceases to be employed, the employer must return the certificate to the individual and notify the department that the employer no longer covers the individual under a qualifying health plan. Any remaining value of the certificate may be used to obtain a qualifying health plan.

Section 38-62-90. This chapter is not intended, nor shall it operate to guarantee health insurance coverage to any individual.

Section 38-62-100. The department may charge the Healthcare Trust Fund a quarterly administrative fee of up to one percent of the amount credited to the Healthcare Trust Fund in the preceding quarter.

Section 38-62-110. The department must provide an annual report on the Healthcare Trust Fund to the Chairman of the Senate Finance Committee, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Banking and Insurance Committee, the Chairman of the House Labor, Commerce, and Industry Committee, the Board of Economic Advisors, and the Study Committee on Healthcare Access and Affordability. The report shall provide, at a minimum, a general description of the services provided and populations served, the number of people served, the average cost per person, the additional administration costs of the programs funded by Healthcare Trust Fund, and a three-year forecast of the utilization of the fund."

SECTION 6. Chapter 74, Title 38 of the 1976 Code is amended by adding:

"Section 38-74-75. (A) There is created the "Palmetto Healthcare Safety Net" program of the pool. The program shall be funded by the Palmetto Healthcare Safety Net fund created in Section 11-11-220(D), and shall be self-sustaining and financially independent from the remainder of the pool.

(B) Any person eligible for pool coverage may opt to participate in the Palmetto Healthcare Safety Net program of the pool, provided the person also:

- (1) is at least nineteen years of age;
- (2) provides evidence of United States citizenship and of South Carolina residency for the sixty months immediately preceding the application for coverage;
- (3) provides their prior year's state income tax return and corresponding W-2 forms evidencing total household gross income that did not exceed seventy-five thousand dollars in the previous taxable year; and
- (4) agrees to participate in the Palmetto Healthcare Safety Net program and to comply with all care coordination plans, case management procedures, and managed care criteria of the program developed by the Department of Insurance.

(C) The Department of Insurance shall oversee the Palmetto Healthcare Safety Net program. The department shall:

- (1) select a qualified entity, in accordance with the procedures contained in Section 38-74-40, to administer the program including:
 - (a) establishing accounting policies for the Palmetto Healthcare Safety Net Fund;
 - (b) establishing premium billing and collection policies including policies regarding non-payment of premiums;
 - (c) hiring independent actuarial support from a qualified Member of the Academy of Actuaries to develop and publish actuarially determined annual premium rates that are self-sustaining and actuarially sound. Rates may be adjusted by age and gender and any other appropriate characteristics determined by the contracted actuary;

- (d) developing an application for participation and establish policies and procedures for initially determining eligibility, the periodic re-determination of eligibility, monitoring of compliance with program rules and managed care provisions and termination of participation, and the premium assistance for noncompliance;
 - (e) establishing a schedule of medical benefits, exclusions, and limitations for the program;
 - (f) developing stringent care coordination plans, case management procedures, and other managed care criteria that will serve as a requirement for eligible persons to participate in this program; and
 - (g) developing and implementing a public awareness program of the plan; and
- (2) promulgate regulations necessary to implement the provisions of this section.

(D) Participation in the Palmetto Healthcare Safety Net program is limited to the funds available in the Palmetto Healthcare Safety Net fund in order to prevent any loss in program operations. The Department of Insurance or its contracted entity shall accept and process applications, and award the premium assistance provided for in this section, in the order in which the applications are received. The department is further authorized to establish a waiting list in the event there are insufficient funds available to allow all applicants to participate. The department may also implement a maximum limit on individual coverage to prevent an operating loss. The program may not be funded in any part by the funding mechanisms of the existing pool. The Department of Insurance may charge the Palmetto Healthcare Safety Net Fund a quarterly administrative fee of up to one percent of the amount credited to the Palmetto Healthcare Safety Net Fund in the preceding year.

(E) Beginning on July 1, 2010, and then only to the extent sufficient funds exist in the Palmetto Healthcare Safety Net Fund, participants in the Palmetto Healthcare Safety Net Program shall be entitled to a premium assistance equal to the difference between the self-supporting actuarial premium for this pool and the amount that the individual would have been required to pay for an equivalent product under Section 38-62-30.

(F) The Department of Insurance is authorized to initiate periodic transfers in the amount of the approved premium assistance from the Palmetto Healthcare Safety Net Fund to the administering entity of the Palmetto Healthcare Safety Net program to be credited against the premiums owed by the program and any additional funds to maintain the solvency of the program.

(G) Neither the establishment of rates, forms, or procedures nor any other joint or collective action required by this section may be the basis of any legal action, criminal or civil liability, or penalty against the program. No cause of action may arise against the program's agents, employees, or representatives, for any good faith act or omission in the performance of their powers and duties pursuant to this section.

(H) The department must provide an annual report on the Palmetto Healthcare Safety Net program of the pool to the Senate Finance Committee, the Chairman of the House Ways and Means Committee, the Chairman of the Senate Banking and Insurance Committee, the Chairman of the House Labor, Commerce, and Industry Committee, the Board of Economic Advisors, and the Study Committee on Healthcare Access and Affordability. The report shall provide, at a minimum, a general description of the services provided and populations served, the number of people served, the average cost per person, the additional administration costs of the programs funded by Healthcare Trust Fund, and a three-year forecast of the utilization of the fund."

SECTION 7. In April, May, and June of 2008, neither a wholesaler, distributor, or a retailer of cigarettes may purchase more cigarettes in any one month in an amount that exceeds one hundred ten percent of the average monthly amount of cigarettes purchased in the same three months of the previous calendar year. In examining aggregate business license tax revenue data, if the Department of Revenue determines that the revenue collected in April, May, and June of 2008 exceeds one hundred ten percent of the amount collected during the same three months of the previous calendar year, the business license tax audit division of the department shall conduct an audit of random wholesalers, distributors, and retailers to ensure compliance with the requirements of this section. Any violation of this section shall result in a civil fine equal to five times the amount of tax owed on the purchased cigarettes that caused the wholesaler, distributor, or retailer to exceed one hundred ten percent of the amount purchased in the same three months of the previous calendar year.

SECTION 8. (A) There is created the Study Committee on Healthcare Access and Affordability. The committee shall review and make recommendations regarding the State's overall health status, the price of healthcare, the use of Medicare and Medicaid, the promotion of public and private healthcare partnerships, preventative care, the establishment of a high risk healthcare pool, the necessity of a reinsurance program, how to maximize coverage while controlling costs and providing quality care, and how to improve the State's overall health and healthcare affordability.

(B) The study committee shall be composed of nine members. The President Pro Tempore of the Senate, the Speaker of the House of Representatives, and the Governor shall each appoint three members. The Governor must appoint one member based upon the recommendation of the Health Sciences South Carolina collaborative. Each member must have a background of substantial duration or expertise in at least one of the following:

- (1) healthcare issues;
- (2) business issues;
- (3) economic issues;
- (4) consumer issues;
- (5) insurance issues;
- (6) academic issues; or
- (7) governmental issues.

(C) The study committee shall make a report of its findings and recommendations to the General Assembly no later than January 1, 2010, at which time the study committee must be dissolved.

SECTION 9. Except where otherwise provided, this act takes effect upon approval by the Governor.
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Renumber sections to conform.

Amend title to conform.

HUGH K. LEATHERMAN, SR. for Committee.

A BILL

TO AMEND SECTION 12-21-620, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO TAXATION ON CIGARETTES, SO AS TO INCREASE THE AMOUNT OF TAX ON EACH CIGARETTE FROM THREE AND ONE-HALF MILLS TO TWO CENTS; TO ADD SECTION 44-6-157 SO AS TO PROVIDE THAT THE REVENUE GENERATED FROM THE TAXATION ON CIGARETTES MUST BE USED TO EXPAND MEDICAID COVERAGE TO CHILDREN EIGHTEEN YEARS OF AGE AND YOUNGER WHOSE FAMILY INCOME DOES NOT EXCEED TWO HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL; AND TO CREATE THE HEALTH CARE TRUST FUND TO PROVIDE MEDICAID BENEFITS TO INDIVIDUALS WHOSE FAMILY INCOME DOES NOT EXCEED ONE HUNDRED PERCENT OF THE FEDERAL POVERTY LEVEL AND WHO ARE UNINSURED AND TO PROVIDE THAT REVENUE IN EXCESS OF THE CHILDREN'S MEDICAID COVERAGE FROM THE CIGARETTE TAX MUST BE CREDITED TO THE HEALTH CARE TRUST FUND; AND TO AMEND SECTION 12-36-910, AS AMENDED, RELATING TO SALES TAXES GENERALLY, SO AS TO PROVIDE THAT AS OF JULY 1, 2009, THE THREE PERCENT SALES TAX IS ELIMINATED ON UNPREPARED FOOD WHICH LAWFULLY MAY BE PURCHASED WITH UNITED STATES DEPARTMENT OF AGRICULTURE FOOD COUPONS, TO PROVIDE FOR CERTAIN GENERAL FUND TRANSFERS TO THE EDUCATION IMPROVEMENT ACT FUND FOR EACH FISCAL YEAR TO OFFSET EIA REVENUES LOST AS A RESULT OF THE LOSS OF SALES TAX ON THE SALE OF UNPREPARED FOOD, AND TO REDUCE THE SALES TAX ON UNPREPARED FOOD TO TWO PERCENT AS OF JULY 1, 2007, AND ONE PERCENT AS OF JULY 1, 2008.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

"Section 12-21-625. (A) There is imposed a surtax on cigarettes subject to the tax imposed pursuant to Section 12-21-620(1) in an amount equal to 1.5 cents on each cigarette.

(B) Notwithstanding another provision of law providing for the crediting of the revenues by license or other taxes, the revenue of the surtax imposed by this section must be credited to the Groceries' Sales Tax Relief Fund established pursuant to subsection (C) and used only for the purpose prescribed in subsection (C).

(C)(1) There is created the Groceries' Sales Tax Relief Fund into which must be deposited the revenue of the surtax collected pursuant to subsection (A). The fund must be separate and distinct from the general fund and may be used only for the purpose prescribed in this subsection. Earnings on investments from this fund must remain part of the separate fund and must not be deposited in the general fund, except as otherwise provided in this subsection.

(2) Monies in the fund must be used to reduce the state sales and use tax imposed on the gross proceeds of the sale or sales price of unprepared food that lawfully may be purchased with United States Department of

Agriculture food coupons.

(3) Monies in the fund must be transferred by the State Treasurer to the general fund each fiscal year in the amount estimated by the Board of Economic Advisors to equal revenue not received as a result of the reduction of the sales and use tax on unprepared food as provided in this subsection.

(4) Monies not expended from the fund during a fiscal year must be carried forward to the succeeding fiscal year and used for the same purpose.

(D) For all purposes of reporting, payment, collection, and enforcement, the surtax imposed by this section is deemed to be imposed pursuant to Section 12-21-620."

SECTION 2. Section 12-36-910(D) of the 1976 Code, as added by Act 388 of 2006, is amended to read:

"(D)(1) Notwithstanding the rate of the tax imposed pursuant to subsection (A) of this section or the rate of any other sales tax imposed pursuant to this chapter and the rate of any use tax imposed pursuant to this chapter, the sales and use tax on the gross proceeds of sales or sales price of unprepared food which lawfully may be purchased with United States Department of Agriculture food coupons is ~~three~~ one and four-tenths percent.

(2) There is transferred from the general fund of the State to the EIA Fund in fiscal year 2007-2008 the revenue estimated by the Board of Economic Advisors to equal EIA revenue not received as a result of the ~~two~~ one and six-tenths percent sales tax differential provided pursuant to ~~this~~ subsection (D)(1).

(3) Notwithstanding the rate of the tax imposed pursuant to subsection (D)(1), the sales and use tax on the gross proceeds of sales or sales price of unprepared food which lawfully may be purchased with United States Department of Agriculture food coupons is reduced to one and four-tenths percent effective January 1, 2008. There is transferred from the general fund of the State to the EIA Fund the revenue estimated by the Board of Economic Advisors to equal EIA revenue not received as a result of the loss of this sales tax revenue."

SECTION 3.A. Section 12-21-750 of the 1976 Code is amended to read:

"Section 12-21-750. ~~All~~ A retail ~~dealers~~ dealer in manufactured tobacco products, ~~shells, cartridges or playing cards~~ purchasing or receiving ~~such the~~ commodities from without the State, whether they ~~shall~~ have been ordered through a wholesaler or jobber in this State, by drop shipment or otherwise, ~~shall~~, within five days after receipt of them, shall mail a duplicate invoice of all ~~such the~~ purchases or receipts to the department. Failure to furnish duplicate invoices as required ~~shall be~~ is a misdemeanor and, upon conviction, ~~be is~~ punishable by a fine of not more than one hundred dollars for each offense or imprisonment for a period not exceeding thirty days."

B. Section 12-21-770 of the 1976 Code is amended to read:

"Section 12-21-770. ~~Every~~ Any person, firm, corporation, club, or association who sells, stores, or receives for the purpose of distribution to any person, firm, corporation, club, or association ~~any shotgun or other shells, cartridges, manufactured tobacco products or playing cards~~ otherwise taxable ~~under~~ pursuant to

the provisions of this chapter ~~shall~~ must pay the tax at the rates provided in this article for the sale of ~~such articles~~ those products."

SECTION 4. Article 5, Chapter 21, Title 12 of the 1976 Code is amended by adding:

"Section 12-21-627. Notwithstanding any other provision of law providing for the crediting and use of the revenues of the license tax on tobacco products, in any fiscal year that the license tax on cigarettes is greater than seven cents a pack, the General Assembly shall appropriate one million dollars in the annual general appropriations act to the Department of Agriculture for research and promotion of healthy lifestyles with food grown in this State."

SECTION 5. This act takes effect January 1, 2008.

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