

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2005**

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**HOUSE BILL 1630  
Committee Substitute Favorable 6/7/05  
Senate Finance Committee Substitute Adopted 6/23/05**

Short Title: 2005 Continuing Budget Authority/Revenue.

(Public)

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Sponsors:

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Referred to:

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May 11, 2005

A BILL TO BE ENTITLED

1 AN ACT AUTHORIZING THE DIRECTOR OF THE BUDGET TO CONTINUE  
2 EXPENDITURES FOR THE OPERATION OF GOVERNMENT AT THE LEVEL  
3 IN EFFECT ON JUNE 30, 2005; EXTENDING THE FINAL MATURITY OF  
4 CERTAIN GLOBAL TRANSPARK DEBT FROM JULY 1, 2005, UNTIL JULY  
5 31, 2005; CONFORMING THE RETIREE RETURN TO TEACHING BENEFIT  
6 TO INTERNAL REVENUE SERVICE GUIDELINES AND CLARIFYING THE  
7 DEFINITION OF RETIREMENT; UPDATING THE REFERENCE DATE TO  
8 THE INTERNAL REVENUE CODE; CONFORMING THE SUNSET OF THE  
9 ESTATE TAX TO FEDERAL LAW; AND COMPLYING WITH THE  
10 STREAMLINED SALES AND USE TAX AGREEMENT AND MAKING OTHER  
11 SALES AND USE TAX CHANGES.  
12

13 The General Assembly of North Carolina enacts:

14  
15 **PART I. BUDGET CONTINUATION**

16 **SECTION 1.** The Director of the Budget may continue to allot funds for  
17 expenditure by State departments, institutions, and agencies at a level not to exceed the  
18 level of recurring expenditures authorized in S.L. 2004-124, as amended.

19 The Director of the Budget shall not allocate funds for any of the purposes set  
20 out in the budget reductions contained in Senate Bill 622, fourth edition, and Senate Bill  
21 622, seventh edition, that are not in controversy.

22 Vacant positions subject to the proposed budget reductions in either Senate  
23 Bill 622, fourth edition, or Senate Bill 622, seventh edition, shall not be filled.

24 To the extent necessary to implement this authorization, there is appropriated  
25 from the appropriate State funds and cash balances, federal receipts, and departmental  
26 receipts for the 2005-2006 fiscal year funds necessary to carry out this section.

27 The appropriations and the authorizations to allocate and spend funds which  
28 are set out in this section shall remain in effect until the Current Operations and Capital

1 Improvements Appropriations Act of 2005 becomes law, at which time that act shall  
2 become effective and shall govern appropriations and expenditures. When the Current  
3 Operations and Capital Improvements Appropriations Act of 2005 becomes law, the  
4 Director of the Budget shall adjust allotments to give effect to that act from July 1,  
5 2005.

6 Except as otherwise provided by this act, the limitations and directions for the  
7 2004-2005 fiscal year set out in S.L. 2003-284, as amended, and in S.L. 2004-124, as  
8 amended, remain in effect. Session laws that applied to appropriations to particular  
9 agencies or for particular purposes apply to the funds appropriated and authorized for  
10 expenditure under this section.

## 11 **PART II. FEDERAL BLOCK GRANTS**

12 **SECTION 2.** The Director of the Budget shall continue to allocate federal  
13 block grant funds at the levels provided in Sections 5.1 and 5.2 of S.L. 2004-124 and as  
14 otherwise provided by law, and appropriations from federal block grants are hereby  
15 made.  
16

## 17 **PART III. NO AUTOMATIC STEP INCREASE FOR STATE AND PUBLIC** 18 **SCHOOL EMPLOYEES**

19 **SECTION 3.** State employees subject to G.S. 7A-102(c), 7A-171.1, or  
20 20-187.3 shall not move up on salary schedules or receive automatic increases,  
21 including automatic step increases, until authorized by the General Assembly.  
22

23 Public school employees paid on the teacher salary schedule or the  
24 school-based administrator salary schedule shall not move up on salary schedules or  
25 receive automatic step increases until authorized by the General Assembly.  
26

## 27 **PART IV. SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

28 **SECTION 4.(a)** The State's employer contribution rates budgeted for  
29 retirement and related benefits for the 2005-2006 fiscal year shall remain the same as  
30 they are on June 30, 2005.

31 **SECTION 4.(b)** The State's employer contribution rates established by this  
32 section are effective only until this section expires and are subject to revision in the  
33 Current Operations and Capital Improvements Appropriations Act of 2005. If the  
34 Current Operations and Capital Improvements Appropriations Act of 2005 modifies  
35 these rates, the Director of the Budget shall further modify the rates set in that act for  
36 the remainder of the 2005-2006 fiscal year so as to compensate for the different amount  
37 contributed between July 1, 2005, and the date the Current Operations and Capital  
38 Improvements Appropriations Act of 2005 becomes law so that the effective rates for  
39 the entire year reflect the rates set in the Current Operations and Capital Improvements  
40 Appropriations Act of 2005.  
41

## 42 **PART V. FUNDS SHALL NOT REVERT**

43 **SECTION 5.(a)** If the provisions of either Senate Bill 622, fourth edition, or  
44 Senate Bill 622, seventh edition, or both, direct that funds shall not revert, the funds

1 shall not revert on June 30, 2005. Unless these funds are encumbered on or before June  
2 30, 2005, these funds shall not be expended after June 30, 2005, except as provided by a  
3 law enacted after June 30, 2005.

4 **SECTION 5.(b)** This section becomes effective June 30, 2005.  
5

6 **PART VI. STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON**  
7 **JUNE 30**

8 **SECTION 6.(a)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3A, for the  
9 2004-2005 fiscal year only, funds shall not be reserved to the Repairs and Renovations  
10 Reserve Account, and the State Controller shall not transfer funds from the unreserved  
11 credit balance to the Repairs and Renovations Reserve Account on June 30, 2005.

12 **SECTION 6.(b)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, for the  
13 2004-2005 fiscal year only, funds shall not be reserved to the Savings Reserve Account,  
14 and the State Controller shall not transfer funds from the unreserved credit balance to  
15 the Savings Reserve Account on June 30, 2005.

16 **SECTION 6.(c)** This section becomes effective June 30, 2005.  
17

18 **PART VII. MODIFY GLOBAL TRANSPARK DEBT**

19 **SECTION 7.** G.S. 147-69.2(b)(11) reads as rewritten:

20 "(b) It shall be the duty of the State Treasurer to invest the cash of the funds  
21 enumerated in subsection (a) of this section in excess of the amount required to meet the  
22 current needs and demands on such funds, selecting from among the following:

23 ...

24 (11) With respect to assets of the Escheat Fund, obligations of the North  
25 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),  
26 not to exceed twenty-five million dollars (\$25,000,000), that have a  
27 final maturity not later than ~~July 1, 2005.~~ July 31, 2005. The  
28 obligations shall bear interest at the rate set by the State Treasurer. No  
29 commitment to purchase obligations may be made pursuant to this  
30 subdivision after September 1, 1993, and no obligations may be  
31 purchased after September 1, 1994. In the event of a loss to the  
32 Escheat Fund by reason of an investment made pursuant to this  
33 subdivision, it is the intention of the General Assembly to hold the  
34 Escheat Fund harmless from the loss by appropriating to the Escheat  
35 Fund funds equivalent to the loss."  
36

37 **PART VII-A. CONFORM RETIREE RETURN TO TEACHING BENEFIT TO**  
38 **IRS GUIDELINES/CLARIFY DEFINITION OF RETIREMENT**

39 **SECTION 7A.1.** Subsection (d) of Section 28.24 of S.L. 1998-212, as  
40 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

41 "(d) This section becomes effective January 1, 1999, and expires June 30, ~~2005.~~  
42 2007."

43 **SECTION 7A.2.** The introductory language of Section 67 of S.L. 1998-217,  
44 as amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

1 "SECTION 67. Effective January 1, 1999, through June 30, ~~2005~~, 2007,  
2 G.S. 135-3(8)c., as rewritten by Section 28.24(a) of S.L. 1998-212 reads as rewritten:".

3 SECTION 7A.3. Subsection (b) of Section 67.1 of S.L. 1998-217, as  
4 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

5 "(b) This section becomes effective January 1, 1999, and expires June 30, ~~2005~~-  
6 2007."

7 SECTION 7A.4. Subsection (c) of Section 32.25 of S.L. 2001-424, as  
8 amended by Section 31.18A of S.L. 2004-124, reads as rewritten:

9 "SECTION 32.25.(c) This section becomes effective July 1, 2001, and expires June  
10 30, ~~2005~~. 2007."

11 SECTION 7A.5. G.S. 135-3(8)c. reads as rewritten:

12 "c. Should a beneficiary who retired on an early or service  
13 retirement allowance under this Chapter be reemployed, or  
14 otherwise engaged to perform services, by an employer  
15 participating in the Retirement System on a part-time,  
16 temporary, interim, or on a fee-for-service basis, whether  
17 contractual or otherwise, and if such beneficiary earns an  
18 amount during the 12-month period immediately following the  
19 effective date of retirement or in any calendar year which  
20 exceeds fifty percent (50%) of the reported compensation,  
21 excluding terminal payments, during the 12 months of service  
22 preceding the effective date of retirement, or twenty thousand  
23 dollars (\$20,000), whichever is greater, as hereinafter indexed,  
24 then the retirement allowance shall be suspended as of the first  
25 day of the month following the month in which the  
26 reemployment earnings exceed the amount above, for the  
27 balance of the calendar year. The retirement allowance of the  
28 beneficiary shall be reinstated as of January 1 of each year  
29 following suspension. The amount that may be earned before  
30 suspension shall be increased on January 1 of each year by the  
31 ratio of the Consumer Price Index to the Index one year earlier,  
32 calculated to the nearest tenth of a percent (1/10 of 1%).

33 The computation of postretirement earnings of a beneficiary  
34 under this sub-subdivision, G.S. 135-3(8)c., who has been  
35 retired at least six months and has not been employed in any  
36 ~~capacity, except as a substitute teacher or a part time tutor,~~  
37 capacity with a public school for at least six months  
38 immediately preceding the effective date of reemployment,  
39 shall not include earnings while the beneficiary is employed to  
40 teach on a ~~substitute, interim, or permanent~~ permanent,  
41 full-time basis in a public school. The Department of Public  
42 Instruction shall certify to the Retirement System that a  
43 beneficiary is employed to teach by a local school  
44 administrative unit under the provisions of this sub-subdivision

1 and as a retired teacher as the term is defined under the  
2 provisions of G.S. 115C-325(a)(5a).

3 Beneficiaries employed under this sub-subdivision are not  
4 entitled to any benefits otherwise provided under this Chapter  
5 as a result of this period of employment."

6 **SECTION 7A.6.** G.S. 115C-325(a)(5a) reads as rewritten:

7 "(5a) "Retired teacher" means a beneficiary of the Teachers' and State  
8 Employees' Retirement System of North Carolina who has been retired  
9 at least six months, has not been employed in any ~~capacity, other than~~  
10 ~~as a substitute teacher or a part-time tutor, with a local board of~~  
11 ~~education or a charter school~~ capacity for at least six months,  
12 immediately preceding the effective date of reemployment, is  
13 determined by a local board of education or a charter school to have  
14 had satisfactory performance during the last year of employment by a  
15 local board of education or a charter school, and who is employed to  
16 teach as provided in G.S. 135-3(8)c. A retired teacher at a school other  
17 than a charter school shall be treated the same as a probationary  
18 teacher except that (i) a retired teacher is not eligible for career status  
19 and (ii) the performance of a retired teacher who had attained career  
20 status prior to retirement shall be evaluated in accordance with a local  
21 board of education's policies and procedures applicable to career  
22 teachers."

23 **SECTION 7A.7.** Notwithstanding any other provision of law, each local  
24 school administrative unit shall pay to the Teachers' and State Employees' Retirement  
25 System a Reemployed Teacher Contribution Rate of eleven and seventy-hundredths  
26 percent (11.70%) as a percentage of covered salaries that the retired teachers, who are  
27 exempt from the earnings cap, are being paid. Each local school administrative unit  
28 shall report monthly to the Retirement Systems Division on payments made pursuant to  
29 this subsection.

30 Notwithstanding any other provision of law, any portion of the payment made  
31 by a local school administrative unit to a reemployed teacher who is exempt from the  
32 earnings cap, consisting of salary plus the Reemployed Teacher Contribution Rate, that  
33 exceeds the State-supported salary level for that position, shall be paid from local funds.

34 **SECTION 7A.8.** G.S. 135-1(20) reads as rewritten:

35 "(20) "Retirement" ~~shall mean~~ means the termination of employment and the  
36 ~~withdrawal~~ complete separation from active service with no intent or  
37 agreement, express or implied, to return to service. a ~~A~~ retirement  
38 ~~allowance granted~~ under the provisions of this Chapter. Chapter may  
39 only be granted upon retirement of a member. In order for a member's  
40 retirement to become effective in any month, the member must render  
41 no ~~service~~ service, including part-time, temporary, substitute, or  
42 contractor service, at any time during that month. the six months  
43 immediately following the effective date of retirement."

1           **SECTION 7A.9.** Section 7A.8 of this part becomes effective July 1, 2005,  
2 but does not apply to participants in The University of North Carolina Phased  
3 Retirement Program until June 30, 2007. The remainder of this part becomes effective  
4 June 30, 2005.

5  
6 **PART VIII. INCOME TAX CHANGES**

7           **SECTION 8.1.** G.S. 105-228.90(b)(1b) reads as rewritten:

8           "(b) Definitions. – The following definitions apply in this Article:

9           ...

10           (1b) Code. – The Internal Revenue Code as enacted as of ~~May 1,~~  
11 2004, January 1, 2005, including any provisions enacted as of that date  
12 which become effective either before or after that ~~date, date,~~ but not  
13 including the amendments made to section 164 of the Code by section  
14 501 of P.L. 108-357."

15           **SECTION 8.2.** G.S. 105-130.5(a) reads as rewritten:

16           "(a) The following additions to federal taxable income shall be made in  
17 determining State net income:

18           ...

19           (16) The amount excluded from gross income under Subchapter R of  
20 Chapter 1 of the Code.

21           (17) The amount excluded from gross income under section 199 of the  
22 Code."

23           **SECTION 8.3.** Notwithstanding Section 8.1 of this act, any amendments to  
24 the Internal Revenue Code enacted after May 1, 2004, that increase North Carolina  
25 taxable income for the 2004 taxable year become effective for taxable years beginning  
26 on or after January 1, 2005.

27           **SECTION 8.4.** G.S. 105-228.90(b)(1b), as amended by Section 8.1 of this  
28 act, reads as rewritten:

29           "(b) Definitions. – The following definitions apply in this Article:

30           ...

31           (1b) Code. – The Internal Revenue Code as enacted as of January 1, 2005,  
32 including any provisions enacted as of that date which become  
33 effective either before or after that ~~date,~~ but not including the  
34 amendments made to Section 164 of the Code by Section 501 of P.L.  
35 108-357, date."

36           **SECTION 8.5.** G.S. 105-134.6(c) reads as rewritten:

37           "(c) Additions. – The following additions to taxable income shall be made in  
38 calculating North Carolina taxable income, to the extent each item is not included in  
39 taxable income:

40           ...

41           (3) Any amount deducted from gross income under section 164 of the  
42 Code as state, local, or foreign income tax or as state or local general  
43 sales tax to the extent that the taxpayer's total itemized deductions  
44 deducted under the Code for the taxable year exceed the standard

1 deduction allowable to the taxpayer under the Code reduced by the  
2 amount the taxpayer is required to add to taxable income under  
3 subdivision (4) of this subsection.

4 ...

5 (9) The amount excluded from gross income under section 199 of the  
6 Code."

7 **SECTION 8.6.** Notwithstanding any other provision of law, a taxpayer  
8 whose federal taxable income for 2004 is reduced due to a charitable contribution of  
9 cash made in January 2005 for Indian Ocean tsunami relief efforts in accordance with  
10 P.L. 109-1 is not required to add back the amount of the deduction related to that  
11 contribution in determining North Carolina taxable income for 2004.

12 **SECTION 8.7.** Reserved.

13 **SECTION 8.8.** Sections 8.2, 8.4, and 8.5 of this part become effective for  
14 taxable years beginning on or after January 1, 2005. The remainder of this part is  
15 effective when it becomes law.

## 16 **PART IX. ESTATE TAX CHANGES**

17 **SECTION 9.1.** Section 30C.3(b) of S.L. 2002-126, as amended by Section  
18 37A.4 of S.L. 2003-284 and Section 1 of S.L. 2004-170, reads as rewritten:

19 "**SECTION 30C.3.(b)** This section is effective on and after January 1, 2002, and  
20 applies to the estates of decedents dying on or after that date. ~~This section and Section~~  
21 ~~37A.5 of S.L. 2003-284 are repealed effective for the estates of decedents dying on or~~  
22 ~~after July 1, 2005."~~

23 **SECTION 9.2.** Section 4(b) of S.L. 2004-170 is repealed.

24 **SECTION 9.3.** This part is effective when it becomes law.

## 25 **PART X. SALES TAX CHANGES**

26 **SECTION 10.1.** Section 34.13(c) of S.L. 2001-424, as amended by Section  
27 38.1 of S.L. 2003-284, reads as rewritten:

28 "**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies  
29 to sales made on or after that date. ~~This section is repealed effective for sales made on~~  
30 ~~or after July 1, 2005.~~ This section does not affect the rights or liabilities of the State, a  
31 taxpayer, or another person arising under a statute amended or repealed by this section  
32 before the effective date of its amendment or repeal; nor does it affect the right to any  
33 refund or credit of a tax that accrued under the amended or repealed statute before the  
34 effective date of its amendment or repeal."

35 **SECTION 10.2.(a)** Subdivisions (4a) and (4b) of G.S. 105-164.3 are  
36 recodified as subdivisions (4b) and (4c) respectively.

37 **SECTION 10.2.(b)** G.S. 105-164.3 is amended by adding a new subdivision  
38 to read:

39 "**§ 105-164.3. Definitions.**

40 The following definitions apply in this Article:

41 ...

1           (4a) Combined general rate. – The State's general rate of tax set in  
2           G.S. 105-164.4(a) plus the sum of the rates of the local sales and use  
3           taxes authorized by Subchapter VIII of this Chapter for every county  
4           in this State."

5           **SECTION 10.3.** G.S. 105-164.3, as amended by Section 10.2 of this part,  
6 reads as rewritten:

7 **"§ 105-164.3. Definitions.**

8           The following definitions apply in this Article:

9           ...

10          (1a) Cable service. – The one-way transmission to subscribers of video  
11          programming or another programming service and any subscriber  
12          interaction required to select or use the service.

13          ...

14          (4d) Computer supply. – An item that is considered a 'school computer  
15          supply' under the Streamlined Agreement.

16          ...

17          (10) Food. – Substances that are sold for ingestion or chewing by humans  
18          and are consumed for their taste or nutritional value. The substances  
19          may be in liquid, concentrated, solid, frozen, dried, or dehydrated  
20          form. The term does not include an alcoholic beverage, as defined in  
21          G.S. 105-113.68, or a tobacco ~~products,~~ product, as defined in  
22          G.S. 105-113.4.

23          ...

24          (18a) Maintenance agreement. – An agreement that provides for service to  
25          be performed on tangible personal property at a future time. This  
26          service is rendered to enhance, sustain, or support safe, efficient,  
27          continuous operation or to keep an item in good working order. This  
28          service is not contingent upon the malfunctioning of the tangible  
29          personal property covered under the agreement.

30          ...

31          (37a) Satellite digital audio radio service. – A radio communication service  
32          in which audio programming is digitally transmitted by satellite to an  
33          earth-based receiver, whether directly or via a repeater station.

34          (37b) School supply. – An item that is commonly used by a student in the  
35          course of study and is considered a 'school supply', a 'school art  
36          supply', or 'school instructional material' under the Streamlined  
37          Agreement.

38          ...

39          (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax  
40          Agreement adopted November 12, 2002, as amended on November 19,  
41          2003, November 16, 2004, and April 16, 2005."

42          **SECTION 10.4.(a)** G.S. 105-164.4(a), as amended by Section 10.1 of this  
43 part, reads as rewritten:



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

4       ...  
5       (4c) ~~The rate of six percent (6%) combined general rate~~ applies to the gross  
6 receipts derived from providing telecommunications service. A person  
7 who provides telecommunications service is considered a retailer  
8 under this Article. Telecommunications service is taxed in accordance  
9 with G.S. 105-164.4C.

10       ...  
11       (6) ~~The rate of five percent (5%) combined general rate~~ applies to the gross  
12 receipts derived from providing ~~direct to home satellite service to~~  
13 ~~subscribers in this State~~ any of the following broadcast services to a  
14 subscriber in this State. A person engaged in the business of providing  
15 ~~direct to home satellite service~~ any of these services is considered a  
16 retailer under this ~~Article~~ Article:

- 17       a. ~~Direct-to-home satellite service.~~
- 18       b. Reserved.

19       ..."

20       **SECTION 10.4.(b)** G.S. 105-164.4(a)(6), as amended by Section 10.1 of  
21 this part and subsection (a) of this section, reads as rewritten:

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

25       ...  
26       (1b) The rate of three percent (3%) applies to the sales price of each  
27 ~~aircraft, boat, railway car, or locomotive~~ aircraft or boat sold at retail,  
28 including all accessories attached to the item when it is delivered to the  
29 purchaser. The maximum tax is one thousand five hundred dollars  
30 (\$1,500) per article.

31       (1e) ~~The rate of one percent (1%) applies to the sales price of the following~~  
32 ~~articles:~~

- 33       a. ~~Horses or mules by whomsoever sold.~~
- 34       b. ~~Semen to be used in the artificial insemination of animals.~~
- 35       c. ~~Sales of fuel, other than electricity, to farmers to be used by~~  
36 ~~them for any farm purposes other than preparing food, heating~~  
37 ~~dwellings, and other household purposes. The quantity of fuel~~  
38 ~~purchased or used at any one time shall not in any manner be a~~  
39 ~~determinative factor as to whether any sale or use of fuel is or is~~  
40 ~~not subject to the one percent (1%) rate of tax imposed by this~~  
41 ~~subdivision.~~
- 42       d. ~~Sales of fuel, other than electricity, to manufacturing industries~~  
43 ~~and manufacturing plants for use in connection with the~~  
44 ~~operation of such industries and plants other than sales of fuels~~

1 to be used for residential heating purposes. The quantity of fuel  
 2 purchased or used at any one time shall not in any manner be a  
 3 determinative factor as to whether any sale or use of fuel is or is  
 4 not subject to the rate of tax provided in this subdivision.

5 e. Sales of fuel, other than electricity, to commercial laundries or  
 6 to pressing and dry cleaning establishments for use in  
 7 machinery used in the direct performance of the laundering or  
 8 the pressing and cleaning service.

9 f. Sales to freezer locker plants of wrapping paper, cartons and  
 10 supplies consumed directly in the operation of such plant.

11 (1d) The rate of one percent (1%) applies to the sales price of the articles  
 12 listed in G.S. 105-164.4A. The maximum tax is eighty dollars (\$80.00)  
 13 per article. As used in G.S. 105-164.4A and G.S. 105-187.51, the term  
 14 "accessories" does not include electricity.

15 a. through k. Recodified as § 105-164.4A by Session Laws  
 16 1999-360, s. 3(a), effective August 4, 1999.

17 (1e) The rate of three percent (3%) applies to the sales price of each mobile  
 18 classroom or mobile office sold at retail, including all accessories  
 19 attached to the mobile classroom or mobile office when it is delivered  
 20 to the purchaser. The maximum tax is one thousand five hundred  
 21 dollars (\$1,500) per article. Each section of a mobile classroom or  
 22 mobile office that is transported separately to the site where it is to be  
 23 placed is a separate article.

24 ...

25 (6) The combined general rate applies to the gross receipts derived from  
 26 providing any of the following broadcast services to a subscriber in  
 27 this State. A person engaged in the business of providing any of these  
 28 services is considered a retailer under this Article:

29 a. Direct-to-home satellite service.

30 b. Reserved.

31 c. Satellite digital audio radio service. For service received by a  
 32 mobile or portable station, the service is sourced to the  
 33 subscriber's business or home address.

34 (7) The rate of six percent (6%) combined general rate applies to the sales  
 35 price of spirituous liquor other than mixed beverages. As used in this  
 36 subdivision, the terms 'spirituous liquor' and 'mixed beverage' have the  
 37 meanings provided in G.S. 18B-101.

38 ...

39 (9) The general rate of tax applies to the sales price of a maintenance  
 40 agreement. A person who sells a maintenance agreement is considered  
 41 a retailer under this Article."

42 **SECTION 10.5.** G.S. 105-164.4A is repealed.

43 **SECTION 10.6.** G.S. 105-164.4C(b)(2) reads as rewritten:

1           "(2) Charges for directory assistance, directory listing that is not  
2           yellow-page classified listing, call forwarding, call waiting, three-way  
3           calling, caller ID, voice mail, and other similar services."

4           **SECTION 10.7.** G.S. 105-164.4C(c)(11) is repealed.

5           **SECTION 10.8.** G.S. 105-164.6 reads as rewritten:

6           "**§ 105-164.6. Imposition of Complementary use tax.**

7           (a) ~~Tax. – An excise tax at the following percentage rates is imposed on the~~  
8 ~~storage, use, or consumption in this State of tangible personal property purchased inside~~  
9 ~~or outside the State for storage, use, or consumption in the State; at the applicable rate~~  
10 ~~set in G.S. 105-164.4 is imposed on the products listed below. The applicable rate is the~~  
11 ~~rate and maximum tax, if any, that would apply to the sale of the product. A product is~~  
12 ~~subject to tax under this section only if it is subject to tax under G.S. 105-164.4.~~

13           (1) ~~At the applicable percentage rate of the purchase price of each item or~~  
14 ~~article of tangible personal property that is stored, used, or consumed~~  
15 ~~in this State. The applicable percentage rate is the rate and the~~  
16 ~~maximum tax, if any, that applies to a sale of the property that is~~  
17 ~~stored, used, or consumed. Tangible personal property purchased inside~~  
18 ~~or outside this State for storage, use, or consumption in this State. This~~  
19 ~~subdivision includes property that becomes part of a building or~~  
20 ~~another structure.~~

21           (2) ~~At the applicable percentage rate of the monthly lease or rental price~~  
22 ~~paid, contracted, or agreed to be paid by the lessee or renter to the~~  
23 ~~owner of tangible personal property that is stored, used, or consumed~~  
24 ~~in this State. The applicable percentage rate is the rate and the~~  
25 ~~maximum tax, if any, that applies to a lease or rental of the property~~  
26 ~~that is stored, used, or consumed. Tangible personal property leased or~~  
27 ~~rented inside or outside this State for storage, use, or consumption in~~  
28 ~~this State.~~

29           (3) Services sourced to this State.

30           (b) ~~An excise tax at the general rate of tax set in G.S. 105-164.4 is imposed on~~  
31 ~~the purchase price of tangible personal property purchased inside or outside the State~~  
32 ~~that Liability. – The tax imposed by this section is payable by the person who purchases,~~  
33 ~~leases, or rents tangible personal property or who purchases a service. If the property~~  
34 ~~purchased becomes a part of a building or other structure in the State. The purchaser of~~  
35 ~~the property is liable for the tax. If the purchaser is a contractor, the contractor and~~  
36 ~~owner are jointly and severally liable for the tax; if State and the purchaser is a~~  
37 ~~subcontractor, the subcontractor and contractor contractor or subcontractor, the~~  
38 ~~contractor, the subcontractor, and the owner of the building are jointly and severally~~  
39 ~~liable for the tax. The liability of an owner or a contractor a contractor, a subcontractor,~~  
40 ~~or an owner who did not purchase the property is satisfied if the purchaser delivers to~~  
41 ~~the owner or contractor before final settlement between them by receipt of an affidavit~~  
42 ~~from the purchaser certifying that the tax has been paid.~~

43           (c) ~~Where a retail sales tax has already been paid with respect to tangible~~  
44 ~~personal property in this State by the purchaser thereof, the tax shall be credited upon~~

1 ~~the tax imposed by this Part. Where a retail sales and use tax is due and has been paid~~  
2 ~~with respect to tangible personal property in another state by the purchaser for storage,~~  
3 ~~use or consumption in this State, the tax shall be credited upon the tax imposed by this~~  
4 ~~Part.~~Credit. – A credit is allowed against the tax imposed by this section for the  
5 following:

6 (1) The amount of sales or use tax paid on the item to this State. Payment  
7 of sales or use tax to this State on an item by a retailer extinguishes the  
8 liability of a purchaser for the tax imposed under this section.

9 (2) The amount of sales tax paid on the item to another State. If the  
10 amount of tax paid to anotherthe other state is less than the amount of  
11 tax imposed by this Part, the purchaser shall pay to the Secretary an  
12 amount sufficient to make the tax paid to the other state and this State  
13 equal to the amount imposed by this Part. The Secretary of Revenue  
14 shall require such proof of payment of tax to another state as he deems  
15 necessary. No credit shall be given under this subsection for sales or  
16 use taxes paid in another state if thatsection, the difference is payable  
17 to this State. The credit allowed by this subdivision does not apply to  
18 tax paid to a state that does not grant a similar credit for sales or use  
19 taxes paid in North Carolina.

20 ~~(d) Every person storing, using or otherwise consuming in this State tangible~~  
21 ~~personal property purchased or received at retail either within or without this State shall~~  
22 ~~be liable for the tax imposed by this Article and the liability shall not be extinguished~~  
23 ~~until the tax has been paid to this State. Provided, however, that a receipt from a~~  
24 ~~registered retailer engaged in business in this State given to the purchaser in accordance~~  
25 ~~with the provisions of this Article shall be prima facie sufficient to relieve the purchaser~~  
26 ~~from liability for the tax to which such receipt may refer and the liability of the~~  
27 ~~purchaser shall be extinguished upon payment of the tax by any retailer from whom he~~  
28 ~~has purchased the property.~~

29 ~~(e) Except as provided herein the tax so levied is and shall be in addition to all~~  
30 ~~other taxes whether levied in the form of excise, license, privilege or other taxes.~~

31 (f) Registration. – Before a person may engage in business in this State selling or  
32 delivering tangible personal property for storage, use, or consumption in this State, the  
33 person must obtain a certificate of registration from the Department. To obtain a  
34 certificate of registration, a person must register with the Department.

35 The holder of the certificate of registration must pay the tax levied under this  
36 Article. A certificate of registration is valid unless it is revoked for failure to comply  
37 with the provisions of this Article or becomes void. A certificate issued to a retailer  
38 becomes void if, for a period of 18 months, the retailer files no returns or files returns  
39 showing no sales."

40 **SECTION 10.9.** G.S. 105-164.13 reads as rewritten:

41 "**§ 105-164.13. Retail sales and use tax.**

42 The sale at retail and the use, storage, or consumption in this State of the following  
43 tangible personal property and services are specifically exempted from the tax imposed  
44 by this Article:

- 1                   ...
- 2           (1)   ~~Commercial fertilizer, lime, land plaster, plastic mulch, plant bed~~  
3                   ~~covers, and seeds~~Any of the following items sold to a farmer for  
4                   ~~agricultural purposes~~use by the farmer in the planting, cultivating,  
5                   harvesting, or curing of farm crops or in the production of dairy  
6                   products, eggs, or animals. A 'farmer' includes a dairy operator, a  
7                   poultry farmer, an egg producer, a livestock farmer, a farmer of crops,  
8                   and a farmer of an aquatic species, as defined in G.S. 106-758.
- 9                   a.     ~~Commercial fertilizer, lime, land plaster, plastic mulch, plant~~  
10                   ~~bed covers, and seeds.~~
- 11                   b.     Farm machinery, attachment and repair parts for farm  
12                   machinery, and lubricants applied to farm machinery. The term  
13                   'machinery' includes implements that have moving parts or are  
14                   operated or drawn by an animal. The term does not include  
15                   implements operated wholly by hand or motor vehicles required  
16                   to be registered under Chapter 20 of the General Statutes.
- 17                   c.     A horse or mule.
- 18                   d.     Fuel other than electricity.
- 19           (1a) A container sold to a farmer, as defined in subdivision (1) of this  
20                   section, used for a purpose set out in that subdivision or in packaging  
21                   and transporting the farmer's product for sale.
- 22                   ...
- 23           (2a) Any of the following substances when purchased for use on animals or  
24                   plants, as appropriate, held or produced for commercial purposes. This  
25                   exemption does not apply to any equipment or devices used to  
26                   administer, release, apply, or otherwise dispense these substances:
- 27                   a.     Remedies, vaccines, medications, litter materials, and feeds for  
28                   animals.
- 29                   b.     Rodenticides, insecticides, herbicides, fungicides, and  
30                   pesticides.
- 31                   c.     Defoliant for use on cotton or other crops.
- 32                   d.     Plant growth inhibitors, regulators, or stimulators, including  
33                   systemic and contact or other sucker control agents for tobacco  
34                   and other crops.
- 35                   e.     Semen.
- 36                   ...
- 37           (4c) ~~Any of the following:~~Any of the following items concerning the housing, raising,  
38                   or feeding of animals:
- 39                   a.     Commercially manufactured facilities to be used for  
40                   commercial purposes for housing, raising, or feeding animals or  
41                   for housing equipment necessary for these commercial  
42                   activities.
- 43                   b.     Building materials, supplies, fixtures, and equipment that  
44                   become a part of and are used in the construction, repair, or

- 1 improvement of an enclosure or a structure specifically  
 2 designed, constructed, and used for housing, raising, or feeding  
 3 animals or for housing equipment necessary for one of these  
 4 commercial activities.
- 5 c. Commercially manufactured equipment, and parts and  
 6 accessories for the equipment, used in a facility that is exempt  
 7 from tax under this subdivision or in an enclosure or a structure  
 8 whose building materials are exempt from tax under this  
 9 subdivision.
- 10 (4d) Any of the following tobacco items:
- 11 a. The lease or rental of tobacco sheets used in handling tobacco  
 12 in the warehouse and transporting tobacco to and from the  
 13 warehouse.
- 14 b. A metal flue sold for use in curing tobacco, whether the flue is  
 15 attached to a handfired furnace or used in connection with a  
 16 mechanical burner.
- 17 c. A bulk tobacco barn or rack, parts and accessories attached to  
 18 the tobacco barn or rack, and any similar apparatus, part, or  
 19 accessory used to cure or dry tobacco or another crop.
- 20 (4e) A grain, feed, or soybean storage facility, and parts and accessories  
 21 attached to the facility.
- 22 ...
- 23 (5a) ~~Mill machinery and mill machinery parts and accessories~~ Products that  
 24 are subject to tax under Article 5F of this Chapter.
- 25 ...
- 26 (10) Sales of the following to commercial laundries or to pressing and dry  
 27 cleaning establishments of articles establishments:
- 28 a. Articles or materials used for the identification of garments  
 29 being laundered or dry cleaned, wrapping paper, bags, hangers,  
 30 starch, soaps, detergents, cleaning fluids and other compounds  
 31 or chemicals applied directly to the garments in the direct  
 32 performance of the laundering or the pressing and cleaning  
 33 service.
- 34 b. Laundry and dry-cleaning machinery, parts and accessories  
 35 attached to the machinery, and lubricants applied to the  
 36 machinery.
- 37 c. Fuel, other than electricity, used in the direct performance of  
 38 the laundering or the pressing and cleaning service.
- 39 (10a) Sales of the following to a major recycling facility of (i)  
 40 lubricants facility:
- 41 a. Lubricants and other additives for motor vehicles or machinery  
 42 and equipment used at the facility and (ii) materials, facility.
- 43 b. Materials, supplies, parts, and accessories, other than machinery  
 44 and equipment, that are not capitalized by the taxpayer and are

used or consumed in the manufacturing and material handling processes at the facility.

(10b) c. Sales to a major recycling facility of electricity Electricity used at the facility.

...

(18) ~~Funeral expenses, including coffins and caskets, not to exceed one thousand five hundred dollars (\$1,500). All other funeral expenses, including gross receipts for services rendered, shall be taxable at the general rate of tax set in G.S. 105-164.4. However, "services rendered" shall not include those services which have been taxed pursuant to G.S. 105-164.4(4), or to those services performed by any beautician, cosmetologist, hairdresser or barber employed by or at the specific direction of the family or personal representative of a deceased; and "funeral expenses" and "services rendered" shall not include death certificates procured by or at the specific direction of the family or personal representative of a deceased. Where coffins, caskets or vaults are purchased direct and a separate charge is paid for services, the provisions of this subdivision shall apply to the total for both.~~

...

(45) ~~Sales of the following items to an interstate passenger air carrier or an interstate air courier for use at its hub: aircraft lubricants, aircraft repair parts, and aircraft accessories.~~hub:

- a. Aircraft lubricants, aircraft repair parts, and aircraft accessories.
- b. Aircraft simulators for flight crew training.

...

(45b) Sales of the following items to an interstate air courier for use at its hub:

- a. Aircraft lubricants, aircraft repair parts, and aircraft accessories.
- b. Materials handling equipment, racking systems, and related parts and accessories for the storage or handling and movement of tangible personal property at an airport or in a warehouse or distribution facility.

...

(54) Tangible personal property that is sold to a seller of a maintenance agreement subject to tax under G.S. 105-164.4(a)(9) and is attached or applied to an item serviced under the agreement."

**SECTION 10.10.(a)** G.S. 105-164.13B(a) reads as rewritten:

"(a) State Exemption. – Food is exempt from the taxes imposed by this Article unless the food is included in one of the subdivisions in this subsection. The following food items are subject to tax:

- (1) Alcoholic beverages, as defined in G.S. 105-113.68.
- (2) Dietary supplements.
- (3) Food sold through a vending machine.
- (4) Prepared food.

- 1 (5) Soft drinks.
- 2 (6) Repealed.
- 3 (7) Candy."

4 **SECTION 10.10.(b)** G.S. 105-164.13B(a), as amended by subsection (a) of  
5 this section, reads as rewritten:

6 "(a) State Exemption. – Food is exempt from the taxes imposed by this Article  
7 unless the food is included in one of the subdivisions in this subsection. The following  
8 food items are subject to tax:

- 9 (1) ~~Alcoholic beverages, as defined in G.S. 105-113.68.~~
- 10 (2) Dietary supplements.
- 11 (3) Food sold through a vending machine.
- 12 (4) Prepared food.
- 13 (5) Soft drinks.
- 14 (6) Repealed.
- 15 (7) Candy."

16 **SECTION 10.11.** G.S. 105-164.13C(a) reads as rewritten:

17 "(a) The taxes imposed by this Article do not apply to the following items of  
18 tangible personal property if sold between 12:01A.M. on the first Friday of August and  
19 11:59 P.M. the following Sunday:

- 20 (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per  
21 item.
- 22 (2) School supplies with a sales price of one hundred dollars (\$100.00) or  
23 less per item.
- 24 (3) Computers with a sales price of three thousand five hundred dollars  
25 (\$3,500) or less per item.
- 26 (3a) Computer supplies with a sales price of two hundred fifty dollars  
27 (\$250.00) or less per item.
- 28 (4) Sport or recreational equipment with a sales price of fifty dollars  
29 (\$50.00) or less per item."

30 **SECTION 10.12.** G.S. 105-164.14(a) reads as rewritten:

31 "(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance  
32 with this section, of part of the sales and use taxes paid by it on the purchase in this  
33 State of railway cars and locomotives, and fuel, lubricants, repair parts, and accessories  
34 ~~purchased in this State~~ for a motor vehicle, railroad car, locomotive, or airplane the  
35 carrier operates. An 'interstate carrier' is a person who is engaged in transporting  
36 persons or property in interstate commerce for compensation. The Secretary shall  
37 prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise,  
38 with respect to which refunds may be claimed, and shall prescribe the time within  
39 which, following these periods, an application for refund may be made.

40 An applicant for refund shall furnish the following information and any proof of the  
41 information required by the Secretary:

- 42 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair  
43 parts, and accessories purchased by the applicant inside or outside this  
44 State during the refund period.



- 1           (2) The purchase price of the items listed in subdivision (1) of this
- 2           subsection.
- 3           (3) The sales and use taxes paid in this State on the listed items.
- 4           (4) The number of miles the applicant's motor vehicles, railroad cars,
- 5           locomotives, and airplanes were operated both inside and outside this
- 6           State during the refund period.
- 7           (5) Any other information required by the Secretary.

8           For each applicant, the Secretary shall compute the amount to be refunded as  
 9 follows. First, the Secretary shall determine the ratio of the number of miles the  
 10 applicant operated its motor vehicles, railroad cars, locomotives, and airplanes in this  
 11 State during the refund period to the number of miles it operated them both inside and  
 12 outside this State during the refund period. Second, the Secretary shall determine the  
 13 applicant's proportional liability for the refund period by multiplying this mileage ratio  
 14 by the purchase price of the items identified in subdivision (1) of this subsection and  
 15 then multiplying the resulting product by the tax rate that would have applied to the  
 16 items if they had all been purchased in this State. Third, the Secretary shall refund to  
 17 each applicant the excess of the amount of sales and use taxes the applicant paid in this  
 18 State during the refund period on these items over the applicant's proportional liability  
 19 for the refund period."

20           **SECTION 10.13.** Part 4 of Article 5 of Chapter 105 of the General Statutes  
 21 is amended by adding a new section to read:

22 **"§ 105-164.15A. Effective date of rate changes for services.**

23           The effective date of a rate change for a service taxable under this Article is  
 24 administered as follows:

- 25           (1) For a rate increase, the new rate applies to the first billing period that  
 26           starts on or after the effective date.
- 27           (2) For a rate decrease, the new rate applies to bills rendered on or after  
 28           the effective date."

29           **SECTION 10.14.** Reserved.

30           **SECTION 10.15.** G.S. 105-164.28 reads as rewritten:

31 **"§ 105-164.28. Certificate of resale.**

32           (a) Seller's Responsibility. – A seller who accepts a certificate of resale from a  
 33 purchaser of tangible personal property has the burden of proving that the sale was not a  
 34 retail sale unless all of the following conditions are met:

- 35           (1) For a sale made in person, the certificate is signed by the ~~purchaser,~~  
 36           purchaser and states the purchaser's name, address, ~~and~~ registration  
 37           number, and ~~describes the type of tangible personal property generally~~  
 38           ~~sold by the purchaser in the regular course of business.~~type of  
 39           business.
- 40           (2) For a sale made in person, the ~~purchaser is engaged in the business of~~  
 41           ~~selling~~ tangible personal property ~~of the type sold.~~sold is the type of  
 42           property typically sold by the type of business stated on the certificate.
- 43           (3) For a sale made over the Internet or by other remote means, ~~the sales~~  
 44           ~~tax registration number given by the purchaser matches the number on~~

1           ~~the Department's registry~~ the seller obtains the purchaser's name,  
2           ~~address, registration number, and type of business and maintains this~~  
3           ~~information in a retrievable format in its records.~~

4           (b) ~~Liabilities. Purchaser's Liability.~~ – A purchaser who does not resell property  
5 purchased under a certificate of resale is liable for any tax subsequently determined to  
6 be due on the sale. ~~A seller of property sold under a certificate of resale is jointly liable~~  
7 ~~with the purchaser of the property for any tax subsequently determined to be due on the~~  
8 ~~sale only if the Secretary proves that the sale was a retail sale."~~

9           **SECTION 10.16.** G.S. 105-164.42B(1) reads as rewritten:

10       **"§ 105-164.42B. Definitions.**

11       The following definitions apply in this Part:

12           (1) Agreement. – ~~The Streamlined Sales and Use Tax~~  
13           ~~Agreement.~~ Agreement, as defined in G.S. 105-164.3.

14           ...."

15           **SECTION 10.17.** Part 7A of Article 5 of Chapter 105 of the General  
16 Statutes is amended by adding a new section to read:

17       **"§ 105-164.42K. Registration and effect of registration.**

18       Registration under the Agreement satisfies the registration requirements under this  
19 Article. A seller who registers under the Agreement within 12 months after the State  
20 becomes a member of the Agreement and who meets the following conditions is not  
21 subject to assessment for sales tax for any period before the effective date of the seller's  
22 registration:

- 23           (1) The seller was not registered with the State during the 12-month period  
24 before the effective date of this State's participation in the Agreement.  
25           (2) When the seller registered, the seller had not received a letter from the  
26 Department notifying the seller of an audit.  
27           (3) The seller continues to be registered under the Agreement and to remit  
28 tax to the State for at least 36 months."

29           **SECTION 10.18.** Part 7A of Article 5 of Chapter 105 of the General  
30 Statutes is amended by adding a new section to read:

31       **"§ 105-164.42L. Databases on taxing jurisdictions.**

32       The Secretary may develop databases that provide information on the boundaries of  
33 taxing jurisdictions and the tax rates applicable to those taxing jurisdictions. A seller  
34 that relies on the information provided in these databases is not liable for  
35 underpayments of tax attributable to erroneous information provided by the Secretary in  
36 those databases."

37           **SECTION 10.19.** G.S. 105-164.44F(a) reads as rewritten:

38           "(a) Amount. – The Secretary must distribute to the cities part of the taxes  
39 imposed by G.S. 105-164.4(a) (4c) on telecommunications service. The Secretary must  
40 make the distribution within 75 days after the end of each calendar quarter. The amount  
41 the Secretary must distribute is eighteen and ~~twenty-six hundredths percent~~  
42 ~~(18.26%)~~ three one-hundredths percent (18.03%) of the net proceeds of the taxes  
43 collected during the quarter, minus two million six hundred twenty thousand nine  
44 hundred forty-eight dollars (\$2,620,948). This deduction is one-fourth of the annual

1 amount by which the distribution to cities of the gross receipts franchise tax on  
2 telephone companies, imposed by former G.S. 105-120, was required to be reduced  
3 beginning in fiscal year 1995-96 as a result of the 'freeze deduction.' The Secretary must  
4 distribute the specified percentage of the proceeds, less the 'freeze deduction' among the  
5 cities in accordance with this section."

6 **SECTION 10.20.(a)** The title of Article 5F of Chapter 105 of the General  
7 Statutes reads as rewritten:

8 "Article 5F.

9 ~~Mill Machinery–Manufacturing Fuel and Certain Machinery and Equipment."~~

10 **SECTION 10.20.(b)** Section 3.2 of S.L. 2001-347 reads as rewritten:

11 "SECTION 3.2. Section 2.8, G.S. 105-164.13(5a), as enacted by Section 2.12, and  
12 Section 2.17 of Part 2 of this act become effective ~~January 1, 2006.~~ October 1, 2005. The  
13 remainder of Part 2 of this act becomes effective January 1, 2002."

14 **SECTION 10.21.** Article 5F of Chapter 105 of the General Statutes is  
15 amended by adding new sections to read:

16 "**§ 105-187.51A. Tax imposed on manufacturing fuel.**

17 A privilege tax is imposed on a manufacturing industry or plant that purchases fuel  
18 to operate the industry or plant. The tax is one percent (1%) of the sales price of the  
19 fuel. The tax does not apply to electricity or piped natural gas.

20 "**§ 105-187.51B. Tax imposed on recycling equipment.**

21 (a) Tax. – A privilege tax is imposed on a major recycling facility that purchases  
22 any of the following tangible personal property for use in connection with the facility:

23 (1) Cranes, structural steel crane support systems, and foundations related  
24 to the cranes and support systems.

25 (2) Port and dock facilities.

26 (3) Rail equipment.

27 (4) Material handling equipment.

28 (b) Rate. – The tax is one percent (1%) of the sales price of the tangible personal  
29 property. The maximum tax is eighty dollars (\$80.00) per article.

30 "**§ 105-187.51C. Tax imposed on telephone company property.**

31 (a) Tax. – A privilege tax is imposed on a telephone company regularly engaged  
32 in providing telephone service to subscribers on a commercial basis that purchases  
33 central office equipment, switchboard and private branch exchange equipment, or  
34 prewritten computer programs used in providing telephone service to its subscribers.

35 (b) Rate. – The tax is one percent (1%) of the sales price of the tangible personal  
36 property. The maximum tax is eighty dollars (\$80.00) per article.

37 "**§ 105-187.51D. Tax imposed on broadcasting machinery.**

38 (a) Tax. – A privilege tax is imposed on a commercial radio or television  
39 company that is under the regulation and supervision of the Federal Communications  
40 Commission that purchases broadcasting equipment, parts and accessories thereto, or  
41 towers.

42 (b) Rate. – The tax is one percent (1%) of the sales price of the tangible personal  
43 property. The maximum tax is eighty dollars (\$80.00) per article."

44 **SECTION 10.22.** G.S. 105-187.52 reads as rewritten:

1 **"§ 105-187.52. Administration.**

2 The privilege tax ~~this Article imposes on a person listed in G.S. 105-187.51 is an~~  
3 additional taxes imposed by this Article are in addition to the State use tax. Except as  
4 otherwise provided in this Article, the collection and administration of ~~this tax~~these  
5 taxes is the same as the State use tax imposed by Article 5 of this Chapter."

6 **SECTION 10.23.** G.S. 105-467(a) is amended by adding a new subdivision  
7 to read:

8 "(a) Sales Tax. – The sales tax that may be imposed under this Article is limited to  
9 a tax at the rate of one percent (1%) of the transactions listed in this subsection. The  
10 sales tax authorized by this Article does not apply to sales that are taxable by the State  
11 under G.S. 105-164.4 but are not specifically included in this subsection.

12 ...

13 (7) The sales price of a maintenance agreement subject to the general rate  
14 of tax under G.S. 105-164.4(a)(9)."

15 **SECTION 10.24.** Section 18 of S.L. 2000-120, as amended by Section 44.1  
16 of S.L. 2003-284, reads as rewritten:

17 "**Section 18.** Section 7 of this act becomes effective January 1, 2001. Sections 10  
18 and 11 of this act become effective for taxable years beginning on or after January 1,  
19 ~~2005-2010.~~ The remainder of this act is effective when it becomes law."

20 **SECTION 10.25.** G.S. 105-151.21(b) reads as rewritten:

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

22 (1) Farm machinery. – Machinery subject to exempt from State sales tax  
23 at the rate of one percent (1%) under G.S. 105-164.4A.105-164.13(4e).

24 (2) Property taxes. – The principal amount of taxes levied and assessed by  
25 a taxing unit under Subchapter II of this Chapter. The term does not  
26 include costs, penalties, interest, or other charges that may be added to  
27 the principal amount.

28 (3) Taxing unit. – Defined in G.S. 105-273."

29 **SECTION 10.26.** Subdivision (b)(5) of Section 5 of Part IV of Chapter 908  
30 of the 1983 Session Laws, as amended by Chapter 821 of the 1989 Session Laws and  
31 S.L. 2001-347, reads as rewritten:

32 "(b) Definitions. The definitions in G.S. 105-164.3 apply to this Part insofar as  
33 they are not inconsistent with the provisions of this Part. In addition, the following  
34 definitions apply in this Part:

35 ...

36 (5) Prepared Food and Beverages. – ~~The term has the same meaning as the~~  
37 ~~term "prepared food" in G.S. 105-164.3.~~ includes the following:

38 a. Prepared food, as defined in G.S. 105-164.3.

39 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets  
40 at least one of the conditions of prepared food under  
41 G.S. 105-164.3."

42 **SECTION 10.27.** Subdivision (a)(2) of Section 2 of Chapter 413 of the 1993  
43 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

1 "Sec. 2. Definitions; Sales and Use Tax Statutes. – (a) The definitions in  
2 G.S. 105-164.3 apply to this act to the extent they are not inconsistent with the  
3 provisions of this act. In addition, the following definitions apply in this act:

4 ...

5 (2) Prepared food and beverages. – The term ~~has the same meaning as the~~  
6 ~~term "prepared food" in G.S. 105-164.3.~~includes the following:

7 a. Prepared food, as defined in G.S. 105-164.3.

8 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets  
9 at least one of the conditions of prepared food under  
10 G.S. 105-164.3."

11 **SECTION 10.28.** Section 2 of Chapter 449 of the 1985 Session Laws, as  
12 amended by Chapter 826 of the 1985 Session Laws, Chapter 177 of the 1991 Session  
13 Laws, and S.L. 2001-347, reads as rewritten:

14 "Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply in this act. In addition,  
15 the following definitions apply in this act.

16 (1) Net proceeds. – Gross proceeds less the cost to the county of  
17 administering and collecting the tax.

18 (2) Prepared food and beverages. – ~~The term has the same meaning as the~~  
19 ~~term "prepared food" in G.S. 105-164.3.~~includes the following:

20 a. Prepared food, as defined in G.S. 105-164.3.

21 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets  
22 at least one of the conditions of prepared food under  
23 G.S. 105-164.3."

24 **SECTION 10.29.** Subsection (b) of Section 1 of Chapter 449 of the 1993  
25 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

26 "(b) Definitions; Sales and Use Tax Statutes. – The definitions in G.S. 105-164.3  
27 apply to this section to the extent they are not inconsistent with the provisions of this  
28 section. The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes  
29 apply to this section to the extent they are not inconsistent with the provisions of this  
30 section.~~In addition,~~ For the purposes of this section, the term 'prepared food and  
31 beverages' has the same meaning as the term "prepared food" in G.S. 105-164.3.  
32 includes the following:

33 (1) Prepared food, as defined in G.S. 105-164.3.

34 (2) An alcoholic beverage, as defined in G.S. 18B-101, that meets at least  
35 one of the conditions of prepared food under G.S. 105-164.3.

36 ~~The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes apply to~~  
37 ~~this section to the extent they are not inconsistent with the provisions of this section."~~

38 **SECTION 10.30.** Subdivision (3) of Section 2 of Chapter 594 of the 1991  
39 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

40 "Sec. 2. Definitions. The definitions in G.S. 105-164.3 apply to this act to the extent  
41 they are not inconsistent with the provisions of this act. The following definitions also  
42 apply in this act:

43 ...

- 1 (3) Prepared food and beverage. ~~– The term has the same meaning as the~~  
2 ~~term "prepared food" in G.S. 105-164.3; includes the following:~~  
3 a. Prepared food, as defined in G.S. 105-164.3.  
4 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets  
5 at least one of the conditions of prepared food under  
6 G.S. 105-164.3."

7 **SECTION 10.31.** Section 3.1 of S.L. 2001-347, as amended by Section 13  
8 of S.L. 2003-416, reads as rewritten:

9 "**SECTION 3.1.** Part 1 of this act is effective when it becomes law and expires  
10 January 1, 2006, unless one of the following occurs: (i) 15 states have adopted the  
11 Streamlined Sales and Use Tax Agreement, or (ii) states representing a combined  
12 resident population equal to at least ten percent (10%) of the national resident  
13 population, as determined by the 2000 federal decennial census, have adopted the  
14 Agreement.law."

15 **SECTION 10.32.** Reserved.

16 **SECTION 10.33.** S.L. 2004-123 is amended by adding a new section to  
17 read:

18 "**SECTION 3.1.** This act applies to Dare County only."

19 **SECTION 10.34.** Section 10.1, 10.20(b), 10.24, and 10.31 through 10.34 of  
20 this part are effective when they become law. Sections 10.2, 10.4(a), 10.6, 10.7, 10.8,  
21 10.10(a), 10.13, and 10.19 of this part become effective August 1, 2005. Section 10.25  
22 of this part is effective for taxable years beginning on or after January 1, 2006. The  
23 remainder of this part becomes effective October 1, 2005. For prepayments of  
24 telecommunications and direct to home satellite services, the first billing period is  
25 considered to start on or after September 1, 2005. For prepayments of satellite digital  
26 audio radio services, the first billing period is considered to start on or after November  
27 1, 2005. Section 10.19 of this part applies to distributions to cities of the net proceeds  
28 of the sales tax imposed on telecommunications service under G.S. 105-164.4(a)(4c)  
29 collected during calendar quarters that begin on or after October 1, 2005.

## 30 **PART XI. EFFECTIVE DATE**

31 **SECTION 11.** Except as otherwise provided, Parts I through VI of this act  
32 become effective July 1, 2005, and expire July 15, 2005. Except as otherwise provided,  
33 the remainder of this act becomes effective June 30, 2005.  
34