

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
Fourth Edition Engrossed 6/23/05

Short Title: 2005 Continuing Budget Authority/Revenue.

(Public)

Sponsors:

Referred to:

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 The General Assembly of North Carolina enacts:

13
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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.

1 The appropriations and the authorizations to allocate and spend funds which
2 are set out in this section shall remain in effect until the Current Operations and Capital
3 Improvements Appropriations Act of 2005 becomes law, at which time that act shall
4 become effective and shall govern appropriations and expenditures. When the Current
5 Operations and Capital Improvements Appropriations Act of 2005 becomes law, the
6 Director of the Budget shall adjust allotments to give effect to that act from July 1,
7 2005.

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

13 14 **PART II. FEDERAL BLOCK GRANTS**

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

19 20 **PART III. NO AUTOMATIC STEP INCREASE FOR STATE AND PUBLIC** 21 **SCHOOL EMPLOYEES**

22 **SECTION 3.** State employees subject to G.S. 7A-102(c), 7A-171.1, or
23 20-187.3 shall not move up on salary schedules or receive automatic increases,
24 including automatic step increases, until authorized by the General Assembly.

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

28 29 **PART IV. SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

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

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

43 44 **PART V. FUNDS SHALL NOT REVERT**

1 **SECTION 5.(a)** If the provisions of either Senate Bill 622, fourth edition, or
2 Senate Bill 622, seventh edition, or both, direct that funds shall not revert, the funds
3 shall not revert on June 30, 2005. Unless these funds are encumbered on or before June
4 30, 2005, these funds shall not be expended after June 30, 2005, except as provided by a
5 law enacted after June 30, 2005.

6 **SECTION 5.(b)** This section becomes effective June 30, 2005.
7

8 **PART VI. STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON**
9 **JUNE 30**

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

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

18 **SECTION 6.(c)** This section becomes effective June 30, 2005.
19

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

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

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

25 ...

26 (11) With respect to assets of the Escheat Fund, obligations of the North
27 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),
28 not to exceed twenty-five million dollars (\$25,000,000), that have a
29 final maturity not later than ~~July 1, 2005.~~ July 31, 2005. The
30 obligations shall bear interest at the rate set by the State Treasurer. No
31 commitment to purchase obligations may be made pursuant to this
32 subdivision after September 1, 1993, and no obligations may be
33 purchased after September 1, 1994. In the event of a loss to the
34 Escheat Fund by reason of an investment made pursuant to this
35 subdivision, it is the intention of the General Assembly to hold the
36 Escheat Fund harmless from the loss by appropriating to the Escheat
37 Fund funds equivalent to the loss."
38

39 **PART VII-A. EXTEND THE SUNSET ON RETIRED TEACHERS RETURNING**
40 **TO THE CLASSROOM**

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

43 "(d) This section becomes effective January 1, 1999, and expires June 30, ~~2005.~~
44 2007."

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

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

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

7 "(b) This section becomes effective January 1, 1999, and expires June 30, ~~2005~~.
8 2007."

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

11 **"SECTION 32.25.(c)** This section becomes effective July 1, 2001, and expires June
12 30, ~~2005~~. 2007."

13 **SECTION 7A.5.** This part becomes effective June 30, 2005.

14 **PART VIII. INCOME TAX CHANGES**

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

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

17 ...

18 (1b) Code. – The Internal Revenue Code as enacted as of ~~May 1,~~
19 2004, January 1, 2005, including any provisions enacted as of that date
20 which become effective either before or after that ~~date~~ date, ~~but not~~
21 including the amendments made to section 164 of the Code by section
22 501 of P.L. 108-357."

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

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

26 ...

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

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

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

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

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

38 ...

39 (1b) Code. – The Internal Revenue Code as enacted as of January 1, 2005,
40 including any provisions enacted as of that date which become
41 effective either before or after that ~~date~~, ~~but not including the~~
42 ~~amendments made to Section 164 of the Code by Section 501 of P.L.~~
43 ~~108-357.~~ date."

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

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

5 ...

6 (3) Any amount deducted from gross income under section 164 of the
7 Code as state, local, or foreign income tax or as state or local general
8 sales tax to the extent that the taxpayer's total itemized deductions
9 deducted under the Code for the taxable year exceed the standard
10 deduction allowable to the taxpayer under the Code reduced by the
11 amount the taxpayer is required to add to taxable income under
12 subdivision (4) of this subsection.

13 ...

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

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

21 **SECTION 8.7.** Reserved.

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

25

26 **PART IX. ESTATE TAX CHANGES**

27 **SECTION 9.1.** Section 30C.3(b) of S.L. 2002-126, as amended by Section
28 37A.4 of S.L. 2003-284 and Section 1 of S.L. 2004-170, reads as rewritten:

29 "**SECTION 30C.3.(b)** This section is effective on and after January 1, 2002, and
30 applies to the estates of decedents dying on or after that date. ~~This section and Section~~
31 ~~37A.5 of S.L. 2003-284 are repealed effective for the estates of decedents dying on or~~
32 ~~after July 1, 2005."~~

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

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

35

36 **PART X. SALES TAX CHANGES**

37 **SECTION 10.1.** Section 34.13(c) of S.L. 2001-424, as amended by Section
38 38.1 of S.L. 2003-284, reads as rewritten:

39 "**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies
40 to sales made on or after that date. ~~This section is repealed effective for sales made on~~
41 ~~or after July 1, 2005.~~ This section does not affect the rights or liabilities of the State, a
42 taxpayer, or another person arising under a statute amended or repealed by this section
43 before the effective date of its amendment or repeal; nor does it affect the right to any

1 refund or credit of a tax that accrued under the amended or repealed statute before the
2 effective date of its amendment or repeal."

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

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

7 "**§ 105-164.3. Definitions.**

8 The following definitions apply in this Article:

9 ...

10 (4a) Combined general rate. – The State's general rate of tax set in
11 G.S. 105-164.4(a) plus the sum of the rates of the local sales and use
12 taxes authorized by Subchapter VIII of this Chapter for every county
13 in this State."

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

16 "**§ 105-164.3. Definitions.**

17 The following definitions apply in this Article:

18 ...

19 (1a) Cable service. – The one-way transmission to subscribers of video
20 programming or another programming service and any subscriber
21 interaction required to select or use the service.

22 ...

23 (4d) Computer supply. – An item that is considered a 'school computer
24 supply' under the Streamlined Agreement.

25 ...

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

32 ...

33 (18a) Maintenance agreement. – An agreement that provides for service to
34 be performed on tangible personal property at a future time. This
35 service is rendered to enhance, sustain, or support safe, efficient,
36 continuous operation or to keep an item in good working order. This
37 service is not contingent upon the malfunctioning of the tangible
38 personal property covered under the agreement.

39 ...

40 (37a) Satellite digital audio radio service. – A radio communication service
41 in which audio programming is digitally transmitted by satellite to an
42 earth-based receiver, whether directly or via a repeater station.

43 (37b) School supply. – An item that is commonly used by a student in the
44 course of study and is considered a 'school supply', a 'school art

1 supply', or 'school instructional material' under the Streamlined
2 Agreement.

3 ...

4 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax
5 Agreement adopted November 12, 2002, as amended on November 19,
6 2003, November 16, 2004, and April 16, 2005."

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

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

12 ...

13 (4c) ~~The rate of six percent (6%) combined general rate~~ applies to the gross
14 receipts derived from providing telecommunications service. A person
15 who provides telecommunications service is considered a retailer
16 under this Article. Telecommunications service is taxed in accordance
17 with G.S. 105-164.4C.

18 ...

19 (6) ~~The rate of five percent (5%) combined general rate~~ applies to the gross
20 receipts derived from providing ~~direct to home satellite service to~~
21 ~~subscribers in this State.~~ any of the following broadcast services to a
22 subscriber in this State. A person engaged in the business of providing
23 ~~direct to home satellite service~~ any of these services is considered a
24 retailer under this ~~Article.~~ Article:

25 a. Direct-to-home satellite service.

26 b. Reserved.

27 ..."

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

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

33 ...

34 (1b) The rate of three percent (3%) applies to the sales price of each
35 ~~aircraft, boat, railway car, or locomotive~~ aircraft or boat sold at retail,
36 including all accessories attached to the item when it is delivered to the
37 purchaser. The maximum tax is one thousand five hundred dollars
38 (\$1,500) per article.

39 (1c) ~~The rate of one percent (1%) applies to the sales price of the following~~
40 ~~articles:~~

41 a. ~~Horses or mules by whomsoever sold.~~

42 b. ~~Semen to be used in the artificial insemination of animals.~~

43 c. ~~Sales of fuel, other than electricity, to farmers to be used by~~
44 ~~them for any farm purposes other than preparing food, heating~~

- 1 dwellings, and other household 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 one percent (1%) rate of tax imposed by this
5 subdivision.
- 6 d. Sales of fuel, other than electricity, to manufacturing industries
7 and manufacturing plants for use in connection with the
8 operation of such industries and plants other than sales of fuels
9 to be used for residential heating purposes. The quantity of fuel
10 purchased or used at any one time shall not in any manner be a
11 determinative factor as to whether any sale or use of fuel is or is
12 not subject to the rate of tax provided in this subdivision.
- 13 e. Sales of fuel, other than electricity, to commercial laundries or
14 to pressing and dry cleaning establishments for use in
15 machinery used in the direct performance of the laundering or
16 the pressing and cleaning service.
- 17 f. Sales to freezer locker plants of wrapping paper, cartons and
18 supplies consumed directly in the operation of such plant.
- 19 (1d) The rate of one percent (1%) applies to the sales price of the articles
20 listed in G.S. 105-164.4A. The maximum tax is eighty dollars (\$80.00)
21 per article. As used in G.S. 105-164.4A and G.S. 105-187.51, the term
22 "accessories" does not include electricity.
- 23 a. through k. Recodified as § 105-164.4A by Session Laws
24 1999-360, s. 3(a), effective August 4, 1999.
- 25 (1e) The rate of three percent (3%) applies to the sales price of each mobile
26 classroom or mobile office sold at retail, including all accessories
27 attached to the mobile classroom or mobile office when it is delivered
28 to the purchaser. The maximum tax is one thousand five hundred
29 dollars (\$1,500) per article. Each section of a mobile classroom or
30 mobile office that is transported separately to the site where it is to be
31 placed is a separate article.
- 32 ...
- 33 (6) The combined general rate applies to the gross receipts derived from
34 providing any of the following broadcast services to a subscriber in
35 this State. A person engaged in the business of providing any of these
36 services is considered a retailer under this Article:
- 37 a. Direct-to-home satellite service.
- 38 b. Reserved.
- 39 c. Satellite digital audio radio service. For service received by a
40 mobile or portable station, the service is sourced to the
41 subscriber's business or home address.
- 42 (7) The rate of six percent (6%) combined general rate applies to the sales
43 price of spirituous liquor other than mixed beverages. As used in this

1 subdivision, the terms 'spirituous liquor' and 'mixed beverage' have the
2 meanings provided in G.S. 18B-101.

3 ...

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

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

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

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

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

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

14 **"§ 105-164.6. Imposition of Complementary use tax.**

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

21 (1) At the applicable percentage rate of the purchase price of each item or
22 article of tangible personal property that is stored, used, or consumed
23 in this State. The applicable percentage rate is the rate and the
24 maximum tax, if any, that applies to a sale of the property that is
25 stored, used, or consumed. Tangible personal property purchased inside
26 or outside this State for storage, use, or consumption in this State. This
27 subdivision includes property that becomes part of a building or
28 another structure.

29 (2) At the applicable percentage rate of the monthly lease or rental price
30 paid, contracted, or agreed to be paid by the lessee or renter to the
31 owner of tangible personal property that is stored, used, or consumed
32 in this State. The applicable percentage rate is the rate and the
33 maximum tax, if any, that applies to a lease or rental of the property
34 that is stored, used, or consumed. Tangible personal property leased or
35 rented inside or outside this State for storage, use, or consumption in
36 this State.

37 (3) Services sourced to this State.

38 (b) An excise tax at the general rate of tax set in G.S. 105-164.4 is imposed on
39 the purchase price of tangible personal property purchased inside or outside the State
40 thatLiability. – The tax imposed by this section is payable by the person who purchases,
41 leases, or rents tangible personal property or who purchases a service. If the property
42 purchased becomes a part of a building or other structure in the State. The purchaser of
43 the property is liable for the tax. If the purchaser is a contractor, the contractor and
44 owner are jointly and severally liable for the tax; if State and the purchaser is a

1 ~~subcontractor, the subcontractor and contractor~~ contractor or subcontractor, the
2 ~~contractor, the subcontractor, and the owner of the building~~ are jointly and severally
3 liable for the tax. The liability of an ~~owner or a contractor~~ contractor, a subcontractor,
4 ~~or an owner~~ who did not purchase the property is satisfied if ~~the purchaser delivers to~~
5 ~~the owner or contractor before final settlement between them~~ by receipt of an affidavit
6 ~~from the purchaser~~ certifying that the tax has been paid.

7 (c) ~~Where a retail sales tax has already been paid with respect to tangible~~
8 ~~personal property in this State by the purchaser thereof, the tax shall be credited upon~~
9 ~~the tax imposed by this Part. Where a retail sales and use tax is due and has been paid~~
10 ~~with respect to tangible personal property in another state by the purchaser for storage,~~
11 ~~use or consumption in this State, the tax shall be credited upon the tax imposed by this~~
12 ~~Part.~~ Credit. – A credit is allowed against the tax imposed by this section for the
13 following:

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

17 (2) The amount of sales tax paid on the item to another State. If the
18 amount of tax paid to another~~the other~~ state is less than the amount of
19 tax imposed by this Part, the purchaser shall pay to the Secretary an
20 amount sufficient to make the tax paid to the other state and this State
21 equal to the amount imposed by this Part. The Secretary of Revenue
22 shall require such proof of payment of tax to another state as he deems
23 necessary. No credit shall be given under this subsection for sales or
24 use taxes paid in another state if that~~section,~~ the difference is payable
25 to this State. The credit allowed by this subdivision does not apply to
26 tax paid to a state that does not grant a similar credit for sales or use
27 taxes paid in North Carolina.

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

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

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

43 The holder of the certificate of registration must pay the tax levied under this
44 Article. A certificate of registration is valid unless it is revoked for failure to comply

1 with the provisions of this Article or becomes void. A certificate issued to a retailer
 2 becomes void if, for a period of 18 months, the retailer files no returns or files returns
 3 showing no sales."

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

5 **"§ 105-164.13. Retail sales and use tax.**

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

9 ...
 10 (1) ~~Commercial fertilizer, lime, land plaster, plastic mulch, plant bed~~
 11 ~~covers, and seeds~~Any of the following items sold to a farmer for
 12 ~~agricultural purposes~~use by the farmer in the planting, cultivating,
 13 harvesting, or curing of farm crops or in the production of dairy
 14 products, eggs, or animals. A 'farmer' includes a dairy operator, a
 15 poultry farmer, an egg producer, a livestock farmer, a farmer of crops,
 16 and a farmer of an aquatic species, as defined in G.S. 106-758.

- 17 a. Commercial fertilizer, lime, land plaster, plastic mulch, plant
 18 bed covers, and seeds.
- 19 b. Farm machinery, attachment and repair parts for farm
 20 machinery, and lubricants applied to farm machinery. The term
 21 'machinery' includes implements that have moving parts or are
 22 operated or drawn by an animal. The term does not include
 23 implements operated wholly by hand or motor vehicles required
 24 to be registered under Chapter 20 of the General Statutes.
- 25 c. A horse or mule.
- 26 d. Fuel other than electricity.

27 (1a) A container sold to a farmer, as defined in subdivision (1) of this
 28 section, used for a purpose set out in that subdivision or in packaging
 29 and transporting the farmer's product for sale.

30 ...
 31 (2a) Any of the following substances when purchased for use on animals or
 32 plants, as appropriate, held or produced for commercial purposes. This
 33 exemption does not apply to any equipment or devices used to
 34 administer, release, apply, or otherwise dispense these substances:

- 35 a. Remedies, vaccines, medications, litter materials, and feeds for
 36 animals.
- 37 b. Rodenticides, insecticides, herbicides, fungicides, and
 38 pesticides.
- 39 c. Defoliant for use on cotton or other crops.
- 40 d. Plant growth inhibitors, regulators, or stimulators, including
 41 systemic and contact or other sucker control agents for tobacco
 42 and other crops.
- 43 e. Semen.

44 ...

- 1 (4c) Any of the ~~following~~ following items concerning the housing, raising,
 2 or feeding of animals:
 3 a. Commercially manufactured facilities to be used for
 4 commercial purposes for housing, raising, or feeding animals or
 5 for housing equipment necessary for these commercial
 6 activities.
 7 b. Building materials, supplies, fixtures, and equipment that
 8 become a part of and are used in the construction, repair, or
 9 improvement of an enclosure or a structure specifically
 10 designed, constructed, and used for housing, raising, or feeding
 11 animals or for housing equipment necessary for one of these
 12 commercial activities.
 13 c. Commercially manufactured equipment, and parts and
 14 accessories for the equipment, used in a facility that is exempt
 15 from tax under this subdivision or in an enclosure or a structure
 16 whose building materials are exempt from tax under this
 17 subdivision.
- 18 (4d) Any of the following tobacco items:
 19 a. The lease or rental of tobacco sheets used in handling tobacco
 20 in the warehouse and transporting tobacco to and from the
 21 warehouse.
 22 b. A metal flue sold for use in curing tobacco, whether the flue is
 23 attached to a handfired furnace or used in connection with a
 24 mechanical burner.
 25 c. A bulk tobacco barn or rack, parts and accessories attached to
 26 the tobacco barn or rack, and any similar apparatus, part, or
 27 accessory used to cure or dry tobacco or another crop.
- 28 (4e) A grain, feed, or soybean storage facility, and parts and accessories
 29 attached to the facility.
 30 ...
- 31 (5a) ~~Mill machinery and mill machinery parts and accessories~~ Products that
 32 are subject to tax under Article 5F of this Chapter.
 33 ...
- 34 (10) Sales of the following to commercial laundries or to pressing and dry
 35 cleaning establishments of articles establishments:
 36 a. Articles or materials used for the identification of garments
 37 being laundered or dry cleaned, wrapping paper, bags, hangers,
 38 starch, soaps, detergents, cleaning fluids and other compounds
 39 or chemicals applied directly to the garments in the direct
 40 performance of the laundering or the pressing and cleaning
 41 service.
 42 b. Laundry and dry-cleaning machinery, parts and accessories
 43 attached to the machinery, and lubricants applied to the
 44 machinery.

- 1 c. Fuel, other than electricity, used in the direct performance of
- 2 the laundering or the pressing and cleaning service.
- 3 (10a) Sales of the following to a major recycling facility of (i)
- 4 lubricants facility:
- 5 a. Lubricants and other additives for motor vehicles or machinery
- 6 and equipment used at the facility and (ii) materials, facility.
- 7 b. Materials, supplies, parts, and accessories, other than machinery
- 8 and equipment, that are not capitalized by the taxpayer and are
- 9 used or consumed in the manufacturing and material handling
- 10 processes at the facility.
- 11 (10b) c. Sales to a major recycling facility of electricity
- 12 Electricity used
- 13 at the facility.
- 14 ...
- 15 (18) ~~Funeral expenses, including coffins and caskets, not to exceed one~~
- 16 ~~thousand five hundred dollars (\$1,500). All other funeral expenses,~~
- 17 ~~including gross receipts for services rendered, shall be taxable at the~~
- 18 ~~general rate of tax set in G.S. 105-164.4. However, "services rendered"~~
- 19 ~~shall not include those services which have been taxed pursuant to~~
- 20 ~~G.S. 105-164.4(4), or to those services performed by any beautician,~~
- 21 ~~cosmetologist, hairdresser or barber employed by or at the specific~~
- 22 ~~direction of the family or personal representative of a deceased; and~~
- 23 ~~"funeral expenses" and "services rendered" shall not include death~~
- 24 ~~certificates procured by or at the specific direction of the family or~~
- 25 ~~personal representative of a deceased. Where coffins, caskets or vaults~~
- 26 ~~are purchased direct and a separate charge is paid for services, the~~
- 27 ~~provisions of this subdivision shall apply to the total for both.~~
- 28 ...
- 29 (45) Sales of the following items to an interstate passenger air carrier or an
- 30 interstate air courier for use at its hub: aircraft lubricants, aircraft
- 31 repair parts, and aircraft accessories. hub:
- 32 a. Aircraft lubricants, aircraft repair parts, and aircraft accessories.
- 33 b. Aircraft simulators for flight crew training.
- 34 ...
- 35 (45b) Sales of the following items to an interstate air courier for use at its
- 36 hub:
- 37 a. Aircraft lubricants, aircraft repair parts, and aircraft accessories.
- 38 b. Materials handling equipment, racking systems, and related
- 39 parts and accessories for the storage or handling and movement
- 40 of tangible personal property at an airport or in a warehouse or
- 41 distribution facility.
- 42 ...
- 43 (54) Tangible personal property that is sold to a seller of a maintenance
- 44 agreement subject to tax under G.S. 105-164.4(a)(9) and is attached or
- applied to an item serviced under the agreement."

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

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

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

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

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

- 17 (1) ~~Alcoholic beverages, as defined in G.S. 105 113.68.~~
- 18 (2) Dietary supplements.
- 19 (3) Food sold through a vending machine.
- 20 (4) Prepared food.
- 21 (5) Soft drinks.
- 22 (6) Repealed.
- 23 (7) Candy."

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

25 "(a) The taxes imposed by this Article do not apply to the following items of
26 tangible personal property if sold between 12:01A.M. on the first Friday of August and
27 11:59 P.M. the following Sunday:

- 28 (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per
29 item.
- 30 (2) School supplies with a sales price of one hundred dollars (\$100.00) or
31 less per item.
- 32 (3) Computers with a sales price of three thousand five hundred dollars
33 (\$3,500) or less per item.
- 34 (3a) Computer supplies with a sales price of two hundred fifty dollars
35 (\$250.00) or less per item.
- 36 (4) Sport or recreational equipment with a sales price of fifty dollars
37 (\$50.00) or less per item."

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

39 "(a) Interstate Carriers. – An interstate carrier is allowed a refund, in accordance
40 with this section, of part of the sales and use taxes paid by it on the purchase in this
41 State of railway cars and locomotives, and fuel, lubricants, repair parts, and accessories
42 purchased in this State for a motor vehicle, railroad car, locomotive, or airplane the
43 carrier operates. An 'interstate carrier' is a person who is engaged in transporting
44 persons or property in interstate commerce for compensation. The Secretary shall

1 prescribe the periods of time, whether monthly, quarterly, semiannually, or otherwise,
2 with respect to which refunds may be claimed, and shall prescribe the time within
3 which, following these periods, an application for refund may be made.

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

- 6 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair
7 parts, and accessories purchased by the applicant inside or outside this
8 State during the refund period.
- 9 (2) The purchase price of the items listed in subdivision (1) of this
10 subsection.
- 11 (3) The sales and use taxes paid in this State on the listed items.
- 12 (4) The number of miles the applicant's motor vehicles, railroad cars,
13 locomotives, and airplanes were operated both inside and outside this
14 State during the refund period.
- 15 (5) Any other information required by the Secretary.

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

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

30 **"§ 105-164.15A. Effective date of rate changes for services.**

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

- 33 (1) For a rate increase, the new rate applies to the first billing period that
34 starts on or after the effective date.
- 35 (2) For a rate decrease, the new rate applies to bills rendered on or after
36 the effective date."

37 **SECTION 10.14.** Reserved.

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

39 **"§ 105-164.28. Certificate of resale.**

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

- 43 (1) For a sale made in person, the certificate is signed by the ~~purchaser,~~
44 purchaser and states the purchaser's name, address, ~~and~~ registration

1 number, and describes the type of tangible personal property generally
2 sold by the purchaser in the regular course of business.type of
3 business.

4 (2) For a sale made in person, the purchaser is engaged in the business of
5 selling tangible personal property of the type sold.sold is the type of
6 property typically sold by the type of business stated on the certificate.

7 (3) For a sale made over the Internet or by other remote means, the sales
8 tax registration number given by the purchaser matches the number on
9 the Department's registry.the seller obtains the purchaser's name,
10 address, registration number, and type of business and maintains this
11 information in a retrievable format in its records.

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

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

18 **"§ 105-164.42B. Definitions.**

19 The following definitions apply in this Part:

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

22"

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

25 **"§ 105-164.42K. Registration and effect of registration.**

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

31 (1) The seller was not registered with the State during the 12-month period
32 before the effective date of this State's participation in the Agreement.

33 (2) When the seller registered, the seller had not received a letter from the
34 Department notifying the seller of an audit.

35 (3) The seller continues to be registered under the Agreement and to remit
36 tax to the State for at least 36 months."

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

39 **"§ 105-164.42L. Databases on taxing jurisdictions.**

40 The Secretary may develop databases that provide information on the boundaries of
41 taxing jurisdictions and the tax rates applicable to those taxing jurisdictions. A seller
42 that relies on the information provided in these databases is not liable for
43 underpayments of tax attributable to erroneous information provided by the Secretary in
44 those databases."

1 **"§ 105-187.51D. Tax imposed on broadcasting machinery.**

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

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

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

9 **"§ 105-187.52. Administration.**

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

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

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

20 ...

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

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

25 **"Section 18.** Section 7 of this act becomes effective January 1, 2001. Sections 10
26 and 11 of this act become effective for taxable years beginning on or after January 1,
27 ~~2005-2010~~. The remainder of this act is effective when it becomes law."

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

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

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

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

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

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

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

43 ...

- 1 (5) Prepared Food and Beverages. ~~– 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 10.27.** Subdivision (a)(2) of Section 2 of Chapter 413 of the 1993
8 Session Laws, as amended by S.L. 2001-347, reads as rewritten:

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

- 12 ...
13 (2) Prepared food and beverages. ~~– The term has the same meaning as the~~
14 ~~term "prepared food" in G.S. 105-164.3; includes the following:~~
15 a. Prepared food, as defined in G.S. 105-164.3.
16 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
17 at least one of the conditions of prepared food under
18 G.S. 105-164.3."

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

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

- 24 (1) Net proceeds. ~~– Gross proceeds less the cost to the county of~~
25 ~~administering and collecting the tax.~~
26 (2) Prepared food and beverages. ~~– The term has the same meaning as the~~
27 ~~term "prepared food" in G.S. 105-164.3; includes the following:~~
28 a. Prepared food, as defined in G.S. 105-164.3.
29 b. An alcoholic beverage, as defined in G.S. 18B-101, that meets
30 at least one of the conditions of prepared food under
31 G.S. 105-164.3."

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

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

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

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

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

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

8 ...

9 (3) Prepared food and beverage. ~~— The term has the same meaning as the~~
10 ~~term "prepared food" in G.S. 105-164.3, includes the following:~~

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

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

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

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

23 **SECTION 10.32.** Reserved.

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

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

27 **SECTION 10.34.** Section 10.1, 10.20(b), 10.24, and 10.31 through 10.34 of
28 this part are effective when they become law. Sections 10.2, 10.4(a), 10.6, 10.7, 10.8,
29 10.10(a), 10.13, and 10.19 of this part become effective August 1, 2005. Section 10.25
30 of this part is effective for taxable years beginning on or after January 1, 2006. The
31 remainder of this part becomes effective October 1, 2005. For prepayments of
32 telecommunications and direct to home satellite services, the first billing period is
33 considered to start on or after September 1, 2005. For prepayments of satellite digital
34 audio radio services, the first billing period is considered to start on or after November
35 1, 2005. Section 10.19 of this part applies to distributions to cities of the net proceeds
36 of the sales tax imposed on telecommunications service under G.S. 105-164.4(a)(4c)
37 collected during calendar quarters that begin on or after October 1, 2005.

38 **PART XI. EFFECTIVE DATE**

39 **SECTION 11.** Except as otherwise provided, Parts I through VI of this act
40 become effective July 1, 2005, and expire July 15, 2005. Except as otherwise provided,
41 the remainder of this act becomes effective June 30, 2005.
42