

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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**HOUSE BILL 1509**  
**Corrected Copy 6/13/02**  
**Senate Finance Committee Substitute Adopted 7/10/02**

Short Title: Revenue Changes/Exempt UNC Trust Property. (Public)

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Sponsors:

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Referred to:

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June 4, 2002

A BILL TO BE ENTITLED

1 AN ACT TO CLARIFY THE SALES AND USE TAX EXEMPTION REGARDING  
2 CERTAIN AGRICULTURAL SUBSTANCES, TO MAKE VARIOUS  
3 ADMINISTRATIVE CHANGES IN THE TAX LAWS, AND TO EXEMPT FROM  
4 PROPERTY TAX EDUCATIONAL PROPERTY HELD BY A NONPROFIT IN  
5 TRUST FOR AN INSTITUTION OF THE UNIVERSITY OF NORTH  
6 CAROLINA.  
7

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.** G.S. 105-164.13(2a) reads as rewritten:

10 "(2a) Any of the following substances when purchased for use on animals or  
11 plants, as appropriate, held or produced for commercial  
12 ~~purposes:~~purposes. This exemption does not apply to any equipment or  
13 devices used to administer, release, apply, or otherwise dispense these  
14 substances:

- 15 a. Remedies, vaccines, medications, litter materials, and feeds for  
16 animals.  
17 b. Rodenticides, insecticides, herbicides, fungicides, and  
18 pesticides.  
19 c. Defoliants for use on cotton or other crops.  
20 d. Plant growth inhibitors, regulators, or stimulators, including  
21 systemic and contact or other sucker control agents for tobacco  
22 and other crops."

23 **SECTION 2.** G.S. 105-164.16(b) reads as rewritten:

24 "(b) Quarterly. – A taxpayer who is consistently liable for less than one hundred  
25 dollars (\$100.00) a month in State and local sales and use taxes must file a return and  
26 pay the taxes due on a quarterly basis. A quarterly return covers a calendar quarter and  
27 is due by the 15<sup>th</sup> last day of the month following the end of the quarter."

28 **SECTION 3.** G.S. 105-164.16(b2) reads as rewritten:

1       "(b2) Semimonthly. – A taxpayer who is consistently liable for at least ten thousand  
2 dollars (\$10,000) a month in State and local sales and use taxes must pay the tax twice a  
3 month and must file a return on a monthly basis. One semimonthly payment covers the  
4 period from the first day of the month through the 15<sup>th</sup> day of the month. The other  
5 semimonthly payment covers the period from the 16<sup>th</sup> day of the month through the last  
6 day of the month. The semimonthly payment for the period that ends on the 15<sup>th</sup> day of  
7 the month is due by the 25<sup>th</sup> day of that month. The semimonthly payment for the period  
8 that ends on the last day of the month is due by the 10<sup>th</sup> day of the following month.

9       A return covers both semimonthly payment periods. The return is due by the 20<sup>th</sup>  
10 day of the month following the month of the payment periods covered by the return. A  
11 taxpayer is not subject to interest on or penalties for an underpayment for a  
12 semimonthly payment period if the taxpayer timely pays at least ninety-five percent  
13 (95%) of the ~~amount due for each semimonthly payment period~~ lesser of the following  
14 and includes the underpayment with the monthly return for those semimonthly payment  
15 ~~periods~~ periods:

16           (1) The amount due for each semimonthly payment period.

17           (2) The average semimonthly payment for the prior calendar year."

18       **SECTION 4.** Part 5 of Article 5 of Chapter 105 is amended by adding a new  
19 section to read:

20 **"§ 105-164.28A. Other exemption certificates.**

21       (a) Authorization. – The Secretary may require a person who purchases tangible  
22 personal property that is exempt from tax or is subject to a preferential rate of tax  
23 depending on the status of the purchaser or the intended use of the property to obtain an  
24 exemption certificate from the Department to receive the exemption or preferential rate.  
25 An exemption certificate authorizes a retailer to sell tangible personal property to the  
26 holder of the certificate and either collect tax at a preferential rate or not collect tax on  
27 the sale, as appropriate. A person who purchases tangible personal property under an  
28 exemption certificate is liable for any tax due on the sale if the Department determines  
29 that the person is not eligible for the certificate or the property was not used as intended.

30       (b) Scope. – This section does not apply to a direct pay permit or a certificate of  
31 resale. G.S. 105-164.27A addresses a direct pay permit, and G.S. 105-164.28 addresses  
32 a certificate of resale."

33       **SECTION 5.** G.S. 105-278.4 reads as rewritten:

34 **"§ 105-278.4. Real and personal property used for educational purposes.**

35       (a) Buildings. – Buildings, the land they actually occupy, and additional land  
36 reasonably necessary for the convenient use of any such building shall be exempted  
37 from taxation if:

38           (1) Owned by an educational institution (including a university, college,  
39 school, seminary, academy, industrial school, public library, museum,  
40 and similar institution); either of the following:

41           a. An educational institution.

42           b. A nonprofit entity in trust for the sole benefit of a constituent or  
43 affiliated institution of The University of North Carolina.

1 (2) The owner is not organized or operated for profit and no officer,  
2 shareholder, member, or employee of the owner or any other person is  
3 entitled to receive pecuniary profit from the owner's operations except  
4 reasonable compensation for services;

5 (3) Of a kind commonly employed in the performance of those activities  
6 naturally and properly incident to the operation of an educational  
7 institution such as the owner; and

8 (4) Wholly and exclusively used for educational purposes by the owner or  
9 occupied gratuitously by another nonprofit educational institution ~~(as~~  
10 ~~defined herein)~~ and wholly and exclusively used by the occupant for  
11 nonprofit educational purposes.

12 (b) Land. – Land (exclusive of improvements); and improvements other than  
13 buildings, the land actually occupied by such improvements, and additional land  
14 reasonably necessary for the convenient use of any such improvement shall be  
15 exempted from taxation if:

16 (1) Owned by an educational institution that owns real property entitled to  
17 exemption under the provisions of subsection (a), above;

18 (2) Of a kind commonly employed in the performance of those activities  
19 naturally and properly incident to the operation of an educational  
20 institution such as the owner; and

21 (3) Wholly and exclusively used for educational purposes by the owner or  
22 occupied gratuitously by another nonprofit educational institution (as  
23 defined herein) and wholly and exclusively used by the occupant for  
24 nonprofit educational purposes.

25 (c) Partial Exemption. – Notwithstanding the exclusive-use requirements of  
26 subsections (a) and (b), above, if part of a property that otherwise meets the  
27 requirements of one of those subsections is used for a purpose that would require  
28 exemption if the entire property were so used, the valuation of the part so used shall be  
29 exempted from taxation.

30 (d) Public Use. – The fact that a building or facility is incidentally available to  
31 and patronized by the general public, so long as there is no material amount of business  
32 or patronage with the general public, ~~shall~~does not defeat the exemption granted by this  
33 section.

34 (e) Personal Property. – Personal property owned by a church, a religious body,  
35 or an educational institution ~~(including a university, college, school, seminary,~~  
36 ~~academy, industrial school, public library, museum, and similar institution)~~ shall be  
37 exempted from taxation if:

38 (1) The owner is not organized or operated for profit, and no officer,  
39 shareholder, member, or employee of the owner, or any other person is  
40 entitled to receive pecuniary profit from the owner's operations except  
41 reasonable compensation for services; and

42 (2) Used wholly and exclusively for educational purposes by the owner or  
43 held gratuitously by a church, religious body, or nonprofit educational

1 institution (~~as defined herein~~) other than the owner, and wholly and  
2 exclusively used for nonprofit educational purposes by the possessor.

3 (f) Definitions. – The following definitions apply in this section:

4 (1) Educational institution. – The term includes a university, a college, a  
5 school, a seminary, an academy, an industrial school, a public library,  
6 a museum, and similar institutions.

7 (2) Educational purpose. – A purpose ~~An educational purpose within the~~  
8 ~~meaning of this section is one~~ that has as its objective the education or  
9 instruction of human beings; it comprehends the transmission of  
10 information and the training or development of the knowledge or skills  
11 of individual persons. The operation of a golf course, a tennis court, a  
12 sports arena, a similar sport property, or a similar recreational sport  
13 property for the use of students or faculty is also an educational  
14 purpose, regardless of the extent to which the property is also available  
15 to and patronized by the general public."

16 **SECTION 6.** Section 2 of this act becomes effective October 1, 2002, and  
17 applies to taxes levied on or after that date. Section 3 of this act becomes effective July  
18 1, 2002, and applies to payments due on or after that date. Section 5 of this act is  
19 effective for taxes imposed for taxable years beginning on or after July 1, 2002. The  
20 remainder of this act is effective when it becomes law.