

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2005**

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**HOUSE BILL 1630
Committee Substitute Favorable 6/7/05**

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; UPDATING THE REFERENCE DATE TO THE INTERNAL
6 REVENUE CODE WITHOUT CONFORMING TO THE DEDUCTION FOR
7 DOMESTIC PRODUCTION ACTIVITIES, STATE AND LOCAL SALES AND
8 USE TAXES, AND CERTAIN INTERNATIONAL SHIPPING ACTIVITIES;
9 EXTENDING THE EIGHT AND ONE-QUARTER PERCENT UPPER
10 INDIVIDUAL INCOME TAX BRACKET AS ENACTED IN 2001 FOR THE 2006
11 AND 2007 TAXABLE YEARS; EXTENDING THE ESTATE TAX UNTIL
12 JANUARY 1, 2010; EXTENDING THE ADDITIONAL ONE-HALF CENT
13 STATE SALES AND USE TAX UNTIL JULY 1, 2007; MAKING SALES TAX
14 CHANGES REQUIRED BY THE STREAMLINED SALES TAX AGREEMENT;
15 RETAINING THE USE TAX LINE ON THE INDIVIDUAL INCOME TAX
16 RETURN UNTIL 2010; AND APPLYING THE SALES TAX TO CANDY,
17 WARRANTY SERVICE AGREEMENTS, CABLE SERVICES, VOICE MAIL,
18 AND SATELLITE RADIO.

19
20 The General Assembly of North Carolina enacts:

21
22 **PART I. BUDGET CONTINUATION**

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

26 The Director of the Budget shall not allocate funds for any of the purposes set
27 out in the budget reductions contained in Senate Bill 622, 4th edition, and Senate Bill
28 622, as it passes the House of Representatives, that are not in controversy.

1 Vacant positions subject to the proposed budget reductions in either Senate
2 Bill 622, 4th edition, or Senate Bill 622, as it passes the House of Representatives, shall
3 not be filled.

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

7 The appropriations and the authorizations to allocate and spend funds which
8 are set out in this section shall remain in effect until the Current Operations and Capital
9 Improvements Appropriations Act of 2005 becomes law, at which time that Act shall
10 become effective and shall govern appropriations and expenditures. When the Current
11 Operations and Capital Improvements Appropriations act of 2005 becomes law, the
12 Director of the Budget shall adjust allotments to give effect to that Act from July 1,
13 2005.

14 Except as otherwise provided by this act, the limitations and directions for the
15 2004-2005 fiscal year set out in S.L. 2003-284 and in S.L. 2004-124 remain in effect.
16 Session laws that applied to appropriations to particular agencies or for particular
17 purposes apply to the funds appropriated and authorized for expenditure under this
18 section.

19 **PART II. FEDERAL BLOCK GRANTS**

20 **SECTION 2.** The Director of the Budget shall continue to allocate federal
21 block grant funds at the levels provided in Sections 5.1 and 5.2 of S.L. 2004-124 and as
22 otherwise provided by law, and appropriations from federal block grants are hereby
23 made.
24

25 **PART III. NO AUTOMATIC STEP INCREASE FOR STATE AND PUBLIC** 26 **SCHOOL EMPLOYEES**

27 **SECTION 3.** State employees subject to G.S. 7A-102(c), 7A-171.1, or
28 20-187.3 shall not move up on salary schedules or receive automatic increases,
29 including automatic step increases, until authorized by the General Assembly.

30 Public school employees paid on the teacher salary schedule or the
31 school-based administrator salary schedule shall not move up on salary schedules or
32 receive automatic step increases until authorized by the General Assembly.
33

34 **PART IV. SALARY-RELATED CONTRIBUTIONS/EMPLOYER**

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

38 **SECTION 4.(b)** The State's employer contribution rates established by this
39 section are effective only until this section expires and are subject to revision in the
40 Current Operations and Capital Improvements Appropriations Act of 2005. If the
41 Current Operations and Capital Improvements Appropriations Act of 2005 modifies
42 these rates, the Director of the Budget shall further modify the rates set in that act for
43 the remainder of the 2005-2006 fiscal year so as to compensate for the different amount
44

1 contributed between July 1, 2005, and the date the Current Operations and Capital
2 Improvements Appropriations Act of 2005 becomes law so that the effective rates for
3 the entire year reflect the rates set in the Current Operations and Capital Improvements
4 Appropriations Act of 2005.

5
6 **PART V. FUNDS SHALL NOT REVERT**

7 **SECTION 5.(a)** If the provisions of either Senate Bill 622, 4th edition, or
8 Senate Bill 622, as it passes the House of Representatives, or both, direct that funds
9 shall not revert, the funds shall not revert on June 30, 2005. Unless these funds are
10 encumbered on or before June 30, 2005, these funds shall not be expended after June
11 30, 2005, except as provided by a law enacted after June 30, 2005.

12 **SECTION 5.(b)** This section becomes effective June 30, 2005.
13

14 **PART VI. STATE CONTROLLER SHALL NOT TRANSFER FUNDS ON**
15 **JUNE 30**

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

20 **SECTION 6.(b)** Notwithstanding G.S. 143-15.2 and G.S. 143-15.3, for the
21 2004-2005 fiscal year only, funds shall not be reserved to the Savings Reserve Account,
22 and the State Controller shall not transfer funds from the unreserved credit balance to
23 the Savings Reserve Account on June 30, 2005.

24 **SECTION 6.(c)** This section becomes effective June 30, 2005.
25

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

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

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

31 ...

32 (11) With respect to assets of the Escheat Fund, obligations of the North
33 Carolina Global TransPark Authority authorized by G.S. 63A-4(a)(22),
34 not to exceed twenty-five million dollars (\$25,000,000), that have a
35 final maturity not later than ~~July 1, 2005.~~ July 31, 2005. The
36 obligations shall bear interest at the rate set by the State Treasurer. No
37 commitment to purchase obligations may be made pursuant to this
38 subdivision after September 1, 1993, and no obligations may be
39 purchased after September 1, 1994. In the event of a loss to the
40 Escheat Fund by reason of an investment made pursuant to this
41 subdivision, it is the intention of the General Assembly to hold the
42 Escheat Fund harmless from the loss by appropriating to the Escheat
43 Fund funds equivalent to the loss."
44

PART VIII. INCOME TAX CHANGES

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

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

...

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

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

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

...

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

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

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

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

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

...

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

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

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

...

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

...

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

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

8 **SECTION 8.7.** The prefatory language of Section 39.1 of S.L. 2003-284
9 reads as rewritten:

10 "**SECTION 39.1.** Effective for taxable years beginning on or after ~~January 1, 2006,~~
11 January 1, 2008, G.S. 105-134.2(a) reads as rewritten:"

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

15 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 26 **PART X. SALES TAX CHANGES**

27 **SECTION 10.1.** Section 34.13(c) of S.L. 2001-424, as amended by Section
28 38.1 of S.L. 2003-284, reads as rewritten:

29 "**SECTION 34.13.(c)** This section becomes effective October 16, 2001, and applies
30 to sales made on or after that date. This section is repealed effective for sales made on
31 or after ~~July 1, 2005.~~ July 1, 2007. This section does not affect the rights or liabilities of
32 the State, a taxpayer, or another person arising under a statute amended or repealed by
33 this section before the effective date of its amendment or repeal; nor does it affect the
34 right to any refund or credit of a tax that accrued under the amended or repealed statute
35 before the effective date of its amendment or repeal."

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

38 **SECTION 10.3.** G.S. 105-164.3 reads as rewritten:

39 **"§ 105-164.3. Definitions.**

40 The following definitions apply in this Article:

41 ...

42 (1a) Cable service. – The one-way transmission to subscribers of video
43 programming or another programming service and any subscriber
44 interaction required to select or use the service.

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

6 ...
 7 (4d) Computer supply. – An item that is considered a 'school computer
 8 supply' under the Streamlined Agreement.

9 ...
 10 (10) Food. – Substances that are sold for ingestion or chewing by humans
 11 and are consumed for their taste or nutritional value. The substances
 12 may be in liquid, concentrated, solid, frozen, dried, or dehydrated
 13 form. The term does not include an alcoholic beverage, as defined in
 14 G.S. 105-113.68, or a tobacco products, product, as defined in
 15 G.S. 105-113.4.

16 ...
 17 (37a) Satellite digital audio radio service. – A radio communication service
 18 in which audio programming is digitally transmitted by satellite to an
 19 earth-based receiver, whether directly or via a repeater station.

20 (37b) School supply. – An item that is commonly used by a student in the
 21 course of study and is considered a 'school supply', a 'school art
 22 supply', or 'school instructional material' under the Streamlined
 23 Agreement.

24 ...
 25 (45a) Streamlined Agreement. – The Streamlined Sales and Use Tax
 26 Agreement adopted November 12, 2002, as amended on November 19,
 27 2003, November 16, 2004, and April 16, 2005."

28 **SECTION 10.4.** G.S. 105-164.4(a), as amended by Section 10.1 of this Part,
 29 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 (4c) The rate of six percent (6%) combined general rate applies to the gross
34 receipts derived from providing telecommunications service. A person
35 who provides telecommunications service is considered a retailer
36 under this Article. Telecommunications service is taxed in accordance
37 with G.S. 105-164.4C.
- 38 ...
- 39 (6) The rate of five percent (5%) combined general rate applies to the gross
40 receipts derived from providing direct to home satellite service to
41 subscribers in this State any of the following broadcast services to a
42 subscriber in this State. A person engaged in the business of providing
43 direct to home satellite service any of these services is considered a
44 retailer under this Article. Article:

- 1 a. Direct-to-home satellite service.
2 b. Cable service.
3 c. Satellite digital audio radio service. For service received by a
4 mobile or portable station, the service is sourced to the
5 subscriber's business or home address.

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

10 ...

11 (9) The general rate of tax applies to the sales price of a warranty
12 agreement, a maintenance agreement, a repair contract, or a similar
13 service agreement or contract by which the seller agrees to maintain or
14 repair tangible personal property. A person who sells a service
15 agreement or contract is considered a retailer under this Article."

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

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

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

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

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

23 "**§ 105-164.6. ~~Imposition of Complementary use tax.~~**

24 (a) ~~Tax. – An excise tax at the following percentage rates is imposed on the~~
25 ~~storage, use, or consumption in this State of tangible personal property purchased inside~~
26 ~~or outside the State for storage, use, or consumption in the State; at the applicable rate~~
27 ~~set in G.S. 105-164.4 is imposed on the items listed below. The applicable rate is the~~
28 ~~rate and maximum tax, if any, that would apply to the sale of the item.~~

29 (1) ~~At the applicable percentage rate of the purchase price of each item or~~
30 ~~article of tangible personal property that is stored, used, or consumed~~
31 ~~in this State. The applicable percentage rate is the rate and the~~
32 ~~maximum tax, if any, that applies to a sale of the property that is~~
33 ~~stored, used, or consumed. Tangible personal property purchased inside~~
34 ~~or outside this State for storage, use, or consumption in this State. This~~
35 ~~subdivision includes property that becomes part of a building or~~
36 ~~another structure.~~

37 (2) ~~At the applicable percentage rate of the monthly lease or rental price~~
38 ~~paid, contracted, or agreed to be paid by the lessee or renter to the~~
39 ~~owner of tangible personal property that is stored, used, or consumed~~
40 ~~in this State. The applicable percentage rate is the rate and the~~
41 ~~maximum tax, if any, that applies to a lease or rental of the property~~
42 ~~that is stored, used, or consumed. Tangible personal property leased or~~
43 ~~rented inside or outside this State for storage, use, or consumption in~~
44 ~~this State.~~

1 (3) Services sourced to this State.

2 (b) ~~An excise tax at the general rate of tax set in G.S. 105-164.4 is imposed on~~
3 ~~the purchase price of tangible personal property purchased inside or outside the State~~
4 ~~that~~Liability. – The tax imposed by this section is payable by the person who purchases,
5 leases, or rents tangible personal property or who purchases a service. If the property
6 purchased becomes a part of a building or other structure in the State. The purchaser of
7 the property is liable for the tax. If the purchaser is a contractor, the contractor and
8 owner are jointly and severally liable for the tax; ifState and the purchaser is a
9 subcontractor, the subcontractor and contractorcontractor or subcontractor, the
10 contractor, the subcontractor, and the owner of the building are jointly and severally
11 liable for the tax. The liability of an owner or a contractora contractor, a subcontractor,
12 or an owner who did not purchase the property is satisfied if the purchaser delivers to
13 the owner or contractor before final settlement between themby receipt of an affidavit
14 from the purchaser certifying that the tax has been paid.

15 (c) ~~Where a retail sales tax has already been paid with respect to tangible~~
16 ~~personal property in this State by the purchaser thereof, the tax shall be credited upon~~
17 ~~the tax imposed by this Part. Where a retail sales and use tax is due and has been paid~~
18 ~~with respect to tangible personal property in another state by the purchaser for storage,~~
19 ~~use or consumption in this State, the tax shall be credited upon the tax imposed by this~~
20 ~~Part.~~Credit. – A credit is allowed against the tax imposed by this section for the
21 following:

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

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

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

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

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

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

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

13 **"§ 105-164.13. Retail sales and use tax.**

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

17 ...

18 (1) ~~Commercial fertilizer, lime, land plaster, plastic mulch, plant bed~~
19 ~~covers, and seeds~~Any of the following items sold to a farmer for
20 agricultural purposes: use by the farmer in the planting, cultivating,
21 harvesting, or curing of farm crops or in the production of dairy
22 products, eggs, or animals. A 'farmer' includes a dairy operator, a
23 poultry farmer, an egg producer, a livestock farmer, a farmer of crops,
24 and a farmer of an aquatic species, as defined in G.S. 106-758.

25 a. Commercial fertilizer, lime, land plaster, plastic mulch, plant
26 bed covers, and seeds.

27 b. Farm machinery, attachment and repair parts for farm
28 machinery, and lubricants applied to farm machinery. The term
29 'machinery' includes implements that have moving parts or are
30 operated or drawn by an animal. The term does not include
31 implements operated wholly by hand or motor vehicles required
32 to be registered under Chapter 20 of the General Statutes.

33 c. A horse or mule.

34 d. Fuel other than electricity.

35 (1a) A container sold to a farmer, as defined in subdivision (1) of this
36 section, used for a purpose set out in that subdivision or in packaging
37 and transporting the farmer's product for sale.

38 ...

39 (2a) Any of the following substances when purchased for use on animals or
40 plants, as appropriate, held or produced for commercial purposes. This
41 exemption does not apply to any equipment or devices used to
42 administer, release, apply, or otherwise dispense these substances:

43 a. Remedies, vaccines, medications, litter materials, and feeds for
44 animals.

- 1 b. Rodenticides, insecticides, herbicides, fungicides, and
- 2 pesticides.
- 3 c. Defoliants for use on cotton or other crops.
- 4 d. Plant growth inhibitors, regulators, or stimulators, including
- 5 systemic and contact or other sucker control agents for tobacco
- 6 and other crops.
- 7 e. Semen.
- 8 ...
- 9 (4c) Any of the following: following items concerning the housing, raising,
- 10 or feeding of animals:
- 11 a. Commercially manufactured facilities to be used for
- 12 commercial purposes for housing, raising, or feeding animals or
- 13 for housing equipment necessary for these commercial
- 14 activities.
- 15 b. Building materials, supplies, fixtures, and equipment that
- 16 become a part of and are used in the construction, repair, or
- 17 improvement of an enclosure or a structure specifically
- 18 designed, constructed, and used for housing, raising, or feeding
- 19 animals or for housing equipment necessary for one of these
- 20 commercial activities.
- 21 c. Commercially manufactured equipment, and parts and
- 22 accessories for the equipment, used in a facility that is exempt
- 23 from tax under this subdivision or in an enclosure or a structure
- 24 whose building materials are exempt from tax under this
- 25 subdivision.
- 26 (4d) Any of the following tobacco items:
- 27 a. The lease or rental of tobacco sheets used in handling tobacco
- 28 in the warehouse and transporting tobacco to and from the
- 29 warehouse.
- 30 b. A metal flue sold for use in curing tobacco, whether the flue is
- 31 attached to a handfired furnace or used in connection with a
- 32 mechanical burner.
- 33 c. A bulk tobacco barn or rack, parts and accessories attached to
- 34 the tobacco barn or rack, and any similar apparatus, part, or
- 35 accessory used to cure or dry tobacco or another crop.
- 36 (4e) A grain, feed, or soybean storage facility, and parts and accessories
- 37 attached to the facility.
- 38 ...
- 39 (5a) Mill ~~machinery and~~ machinery, mill machinery parts and accessories
- 40 accessories, and manufacturing fuel that are subject to tax under
- 41 Article 5F of this Chapter.
- 42 (5b) Sales to a telephone company regularly engaged in providing
- 43 telephone service to subscribers on a commercial basis of central

- 1 office equipment, switchboard equipment, private branch exchange
 2 equipment, and parts and accessories for the equipment.
- 3 (5c) Sales of towers, broadcasting equipment, or parts and accessories for
 4 the equipment to a radio or television company regulated by the
 5 Federal Communications Commission or to a cable service provider.
- 6 ...
- 7 (10) Sales of the following to commercial laundries or to pressing and dry
 8 cleaning establishments of articles establishments:
- 9 a. Articles or materials used for the identification of garments
 10 being laundered or dry cleaned, wrapping paper, bags, hangers,
 11 starch, soaps, detergents, cleaning fluids and other compounds
 12 or chemicals applied directly to the garments in the direct
 13 performance of the laundering or the pressing and cleaning
 14 service.
- 15 b. Laundry and dry-cleaning machinery, parts and accessories
 16 attached to the machinery, and lubricants applied to the
 17 machinery.
- 18 c. Fuel, other than electricity, used in the direct performance of
 19 the laundering or the pressing and cleaning service.
- 20 (10a) Sales of the following to a major recycling facility of (i)
 21 lubricants facility:
- 22 a. Lubricants and other additives for motor vehicles or machinery
 23 and equipment used at the facility and (ii) materials, facility.
- 24 b. Materials, supplies, parts, and accessories, other than machinery
 25 and equipment, that are not capitalized by the taxpayer and are
 26 used or consumed in the manufacturing and material handling
 27 processes at the facility.
- 28 (10b) c. Sales to a major recycling facility of electricity Electricity used
 29 at the facility.
- 30 d. Equipment that is subject to tax under Article 5F of this
 31 Chapter.
- 32 ...
- 33 (18) ~~Funeral expenses, including coffins and caskets, not to exceed one~~
 34 ~~thousand five hundred dollars (\$1,500). All other funeral expenses,~~
 35 ~~including gross receipts for services rendered, shall be taxable at the~~
 36 ~~general rate of tax set in G.S. 105-164.4. However, "services rendered"~~
 37 ~~shall not include those services which have been taxed pursuant to~~
 38 ~~G.S. 105-164.4(4), or to those services performed by any beautician,~~
 39 ~~cosmetologist, hairdresser or barber employed by or at the specific~~
 40 ~~direction of the family or personal representative of a deceased; and~~
 41 ~~"funeral expenses" and "services rendered" shall not include death~~
 42 ~~certificates procured by or at the specific direction of the family or~~
 43 ~~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 sold to a seller of a service agreement subject to tax under G.S. 105-164.4(a)(9) and attached or applied to the item agreed to be serviced as part of its maintenance or repair."

SECTION 10.10. 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.
- (5) Soft drinks.
- (6) Repealed.
- (7) Candy."

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

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

- (1) Clothing with a sales price of one hundred dollars (\$100.00) or less per item.
- (2) School supplies with a sales price of one hundred dollars (\$100.00) or less per item.
- (3) Computers with a sales price of three thousand five hundred dollars (\$3,500) or less per item.
- (3a) Computer supplies with a sales price of two hundred fifty dollars (\$250.00) or less per item.

- 1 (4) Sport or recreational equipment with a sales price of fifty dollars
2 (\$50.00) or less per item."

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

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

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

- 15 (1) A list identifying the railway cars, locomotives, fuel, lubricants, repair
16 parts, and accessories purchased by the applicant inside or outside this
17 State during the refund period.
18 (2) The purchase price of the items listed in subdivision (1) of this
19 subsection.
20 (3) The sales and use taxes paid in this State on the listed items.
21 (4) The number of miles the applicant's motor vehicles, railroad cars,
22 locomotives, and airplanes were operated both inside and outside this
23 State during the refund period.
24 (5) Any other information required by the Secretary.

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

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

39 "**§ 105-164.15A. Effective date of rate changes for services.**

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

- 42 (1) For a rate increase, the new rate applies to the first billing period that
43 starts on or after the effective date.

- 1 (2) For a rate decrease, the new rate applies to bills rendered on or after
2 the effective date."

3 **SECTION 10.14.** Part 4 of Article 5 of Chapter 105 of the General Statutes
4 is amended by adding a new section to read:

5 **"§ 105-164.21B. Credit for local cable television franchise taxes.**

6 A cable service provider is allowed a credit against the tax imposed by
7 G.S. 105-164.4(a)(6) for the amount of local franchise tax payable under G.S. 153A-154
8 and G.S. 160A-214 on its gross receipts for that service. To comply with
9 G.S. 105-164.4(a)(6) and apply the credit allowed under this section, a cable service
10 provider may collect tax from its subscribers at the rate set in G.S. 105-164.4(a)(6) less
11 the rate of the local franchise tax payable on its gross receipts for that service."

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

13 **"§ 105-164.28. Certificate of resale.**

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

- 17 (1) For a sale made in person, the certificate is signed by the ~~purchaser,~~
18 ~~purchaser and~~ states the purchaser's name, address, ~~and~~ registration
19 number, and ~~describes the type of tangible personal property generally~~
20 ~~sold by the purchaser in the regular course of business.~~ type of
21 business.
- 22 (2) For a sale made in person, the ~~purchaser is engaged in the business of~~
23 ~~selling tangible personal property of the type sold.~~ sold is the type of
24 property typically sold by the type of business stated on the certificate.
- 25 (3) For a sale made over the Internet or by other remote means, ~~the sales~~
26 ~~tax registration number given by the purchaser matches the number on~~
27 ~~the Department's registry.~~ the seller obtains the purchaser's name,
28 address, registration number, and type of business and maintains this
29 information in a retrievable format in its records.

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

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

36 **"§ 105-164.42B. Definitions.**

37 The following definitions apply in this Part:

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

40 "

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

43 **"§ 105-164.42K. Registration and effect of registration.**

1 **"§ 105-187.51A. Tax imposed on manufacturing fuel.**

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

5 **"§ 105-187.51B. Tax imposed on recycling equipment.**

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

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

10 (2) Port and dock facilities.

11 (3) Rail equipment.

12 (4) Material handling equipment.

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

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

16 **"§ 105-187.52. Administration.**

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

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

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

27 ...

28 (7) The sales price of a service agreement or contract subject to the
29 general rate of tax under G.S. 105-164.4(a)(9)."

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

32 **"Section 18.** Section 7 of this act becomes effective January 1, 2001. Sections 10
33 and 11 of this act become effective for taxable years beginning on or after January 1,
34 ~~2005-2010~~. The remainder of this act is effective when it becomes law."

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

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

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

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

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

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

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

7 ...

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

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

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

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

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

19 ...

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

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

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

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

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

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

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

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

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

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

41 "(b) Definitions; Sales and Use Tax Statutes. – The definitions in G.S. 105-164.3
42 apply to this section to the extent they are not inconsistent with the provisions of this
43 section. The provisions of Article 5 and Article 9 of Chapter 105 of the General Statutes
44 apply to this section to the extent they are not inconsistent with the provisions of this

1 ~~section.~~~~In addition,~~ For the purposes of this section, the term 'prepared food and
2 beverages' has the same meaning as the term "prepared food" in G.S. 105-164.3.
3 includes the following:

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

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

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

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

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

14 ...

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

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

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

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

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

29 **SECTION 10.32.** Notwithstanding G.S. 105-164.44F, as amended by
30 Section 10.19 of this Part, the amount the Secretary must distribute to the cities is
31 eighteen and twenty-six hundredths percent (18.26%) of the net proceeds of the sales
32 tax imposed on telecommunications service under G.S. 105-164.4(a)(4c) collected for
33 the months of July 2005 and August 2005 and eighteen and three one-hundredths
34 percent (18.03%) of the net proceeds of the tax collected for the month of September
35 2005.

36 **SECTION 10.33.** Sections 10.1, 10.2, 10.24, 10.32, and 10.33 of this Part
37 are effective when they become law. The changes made by Section 10.3 of this Part to
38 G.S. 105-164.3(4d) and (37b), the changes made by Section 10.4 of this Part to
39 G.S. 105-164.4(1c), (1d), and (1e), all of the changes made by Section 10.9 of this Part
40 except the addition of subdivision (54), and Sections 10.5, 10.11, 10.17, 10.18, 10.20,
41 10.21, and 10.22 become effective January 1, 2006. Section 10.25 is effective for
42 taxable years beginning on or after January 1, 2006. The remainder of this Part
43 becomes effective September 1, 2005, Section 10.19 of this Part applies to distributions
44 to cities of the net proceeds of the sales tax imposed on telecommunications service

1 under G.S. 105-164.4(a)(4c) collected for calendar quarters that begin on or after
2 October 1, 2005.

3

4 **PART XI. EFFECTIVE DATE**

5 **SECTION 11.** Parts I through VI of this act become effective June 30, 2005,
6 and expire 30 days after they become law. Except as otherwise provided, the remainder
7 of this act is effective when it becomes law.