

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009**

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HOUSE BILL 1594

Short Title: Study Special Tax Reduction Provisions. (Public)

Sponsors: Representatives Gibson and Haire (Primary Sponsors).

Referred to: Finance.

May 6, 2009

A BILL TO BE ENTITLED
AN ACT TO REQUIRE THE REVENUE LAWS STUDY COMMITTEE TO STUDY
SPECIAL PROVISIONS IN THE NORTH CAROLINA TAX CODE.

The General Assembly of North Carolina enacts:

SECTION 1. The Revenue Laws Study Committee may study issues relating to the effects on State revenues of government-enacted tax incentives, exemptions, credits, refunds, and exclusion, including a repeal or modification of any of the following tax provisions:

(1) Tax incentive provisions:

- a. Article 3A. Tax Incentives For New And Expanding Businesses.
- b. Article 3B. Business And Energy Tax Credits.
- c. Article 3C. Tax Incentives For Recycling Facilities.
- d. Article 3D. Historic Rehabilitation Tax Credits.
- e. Article 3E. Low-Income Housing Tax Credits.
- f. Article 3F. Research and Development.
- g. Article 3G. Tax Incentives for Major Manufacturing Facilities.
- h. Article 3H. Mill Rehabilitation Tax Credit.
- i. Article 3J. Tax Credits for Growing Businesses.
- j. Article 3K. Tax Incentives for Railroad Intermodal Facilities.
- k. Article 5F. Manufacturing Fuel and Certain Machinery and Equipment.

(2) Corporate income tax liability provisions:

- a. G.S. 105-130.8. Net economic loss.
- b. G.S. 105-130.9. Contributions.
- c. G.S. 105-130.22. Tax credit for construction of dwelling units for handicapped persons.
- d. G.S. 105-130.25. Credit against corporate income tax for construction of cogenerating power plants.
- e. G.S. 105-130.34. Credit for certain real property donations.
- f. G.S. 105-130.36. Credit for conservation tillage equipment.
- g. G.S. 105-130.37. Credit for gleaned crop.
- h. G.S. 105-130.39. Credit for certain telephone subscriber line charges.
- i. G.S. 105-130.41. Credit for North Carolina State Ports Authority wharfage, handling, and throughput charges.
- j. G.S. 105-130.43. Credit for savings and loan supervisory fees.
- k. G.S. 105-130.44. Credit for construction of poultry composting facility.
- l. G.S. 105-130.45. Credit for manufacturing cigarettes for exportation.



- 1 m. G.S. 105-130.46. Credit for manufacturing cigarettes for exportation
2 while increasing employment and utilizing State Ports.
- 3 n. G.S. 105-130.47. Credit for qualifying expenses of a production
4 company.
- 5 o. G.S. 105-130.48. Credit for recycling oyster shells.
- 6 (3) Rewriting G.S. 105-130.5, adjustments to federal taxable income in
7 determining State net income for corporate income tax purposes, as provided
8 in section 2 of this act.
- 9 (4) Personal income tax liability provisions:
- 10 a. G.S. 105-151.1. Credit for construction of dwelling units for
11 handicapped persons.
- 12 b. G.S. 105-151.11. Credit for child care and certain
13 employment-related expenses.
- 14 c. G.S. 105-151.12. Credit for certain real property donations.
- 15 d. G.S. 105-151.13. Credit for conservation tillage equipment.
- 16 e. G.S. 105-151.14. Credit for gleaned crop.
- 17 f. G.S. 105-151.18. Credit for the disabled.
- 18 g. G.S. 105-151.20. Credit or partial refund for tax paid on certain
19 federal retirement benefits.
- 20 h. G.S. 105-151.21. Credit for property taxes paid on farm machinery.
- 21 i. G.S. 105-151.22. Credit for North Carolina State Ports Authority
22 wharfage, handling, and throughput charges.
- 23 j. G.S. 105-151.24. Credit for children.
- 24 k. G.S. 105-151.25. Credit for construction of a poultry composting
25 facility.
- 26 l. G.S. 105-151.26. Credit for charitable contributions by nonitemizers.
- 27 m. G.S. 105-151.28. Credit for premiums paid on long-term care
28 insurance.
- 29 n. G.S. 105-151.29. Credit for qualifying expenses of a production
30 company.
- 31 o. G.S. 105-151.30. Credit for recycling oyster shells.
- 32 p. G.S. 105-151.31. Earned income tax credit.
- 33 q. G.S. 105-151.32. Credit for adoption expenses.
- 34 r. Part 5 of Article 4 of Chapter 105 of the General Statutes.
- 35 (5) Rewriting G.S. 105-134.6, adjustments to taxable income for individual
36 income tax purposes, as provided in section 3 of this act.
- 37 (6) Sales and use tax liability provisions:
- 38 a. G.S. 105-164.13A. Service charges on food, beverages, or meals.
- 39 b. G.S. 105-164.13B. Food exempt from tax.
- 40 c. G.S. 105-164.13C. Sales and use tax holiday.
- 41 d. G.S. 105-164.13D. Sales and use tax holiday for Energy Star
42 qualified products.
- 43 e. G.S. 105-164.14. Certain refunds authorized.
- 44 (7) Rewriting G.S. 105-164.13, exemptions from retail sales and use taxes, as
45 provided in section 4 of this act.
- 46 (8) Miscellaneous tax liability provisions:
- 47 a. G.S. 105-40. Amusements – Certain exhibitions, performances, and
48 entertainments exempt from tax.
- 49 b. G.S. 105-113.21. Discount; refund.
- 50 c. G.S. 105-113.39. Discount; refund.
- 51 d. G.S. 105-113.81. Exemptions.

- e. G.S. 105-113.85. Discount.
- f. G.S. 105-113.87. Refund for excise tax paid on sacramental wine.
- g. G.S. 105-122.1. Credit for additional annual report fees paid by limited liability companies subject to franchise tax.
- h. G.S. 105-125. Exempt corporations.
- i. G.S. 105-228.5A. Credit against gross premium tax for assessments paid to the Insurance Guaranty Association and the Life and Health Insurance Guaranty Association.

(9) Any other tax provision reducing tax liability.

SECTION 2. Pursuant to section 1(3) of this act, the study includes a proposed rewrite of G.S. 105-130.5 to read:

"§ 105-130.5. Adjustments to federal taxable income in determining State net income.

...

(b) The following deductions from federal taxable income shall be made in determining State net income:

(1) Interest upon the obligations of the United States or its possessions, to the extent included in federal taxable income: Provided, interest upon the obligations of the United States shall not be an allowable deduction unless interest upon obligations of the State of North Carolina or any of its political subdivisions is exempt from income taxes imposed by the United States.

~~(1a) Interest upon the obligations of any of the following, net of related expenses, to the extent included in federal taxable income:~~

~~a. This State, a political subdivision of this State, or a commission, an authority, or another agency of this State or of a political subdivision of this State.~~

~~b. A nonprofit educational institution organized or chartered under the laws of this State.~~

~~(2) Payments received from a parent, subsidiary or affiliated corporation in excess of fair compensation in intercompany transactions which in the determination of the net income or net loss of such corporation were not allowed as a deduction under the Revenue Laws of this State.~~

(3) Repealed by Session Laws 2003-349, s. 1.1, effective January 1, 2003.

~~(3a) Dividends treated as received from sources outside the United States as determined under section 862 of the Code, net of related expenses, to the extent included in federal taxable income. Notwithstanding the proviso in subdivision (c)(3) of this section, the netting of related expenses shall be calculated in accordance with subdivision (c)(3) of this section and G.S. 105-130.6A.~~

~~(3b) Any amount included in federal taxable income under section 78 or section 951 of the Code, net of related expenses.~~

~~(4) Losses in the nature of net economic losses sustained by the corporation in any or all of the 15 preceding years pursuant to the provisions of G.S. 105-130.8. A corporation required to allocate and apportion its net income under the provisions of G.S. 105-130.4 shall deduct its allocable net economic loss only from total income allocable to this State pursuant to the provisions of G.S. 105-130.8.~~

~~(5) Contributions or gifts made by any corporation within the income year to the extent provided under G.S. 105-130.9.~~

~~(6) Amortization in excess of depreciation allowed under the Code on the cost of any sewage or waste treatment plant, and facilities or equipment used for purposes of recycling or resource recovery of or from solid waste, or for~~

- 1 purposes of reducing the volume of hazardous waste generated as provided
2 in G.S. 105-130.10.
- 3 ~~(7) Depreciation of emergency facilities acquired prior to January 1, 1955. Any~~
4 ~~corporation shall be permitted to depreciate any emergency facility, as such~~
5 ~~is defined in section 168 of the Code, over its useful life, provided such~~
6 ~~facility was acquired prior to January 1, 1955, and no amortization has been~~
7 ~~claimed on such facility for State income tax purposes.~~
- 8 ~~(8) The amount of losses realized on the sale or other disposition of assets not~~
9 ~~allowed under section 1211(a) of the Code. All losses recognized on the sale~~
10 ~~or other disposition of assets must be included in determining State net~~
11 ~~income or loss in the year of disposition.~~
- 12 ~~(9) With respect to a shareholder of a regulated investment company, the portion~~
13 ~~of undistributed capital gains of such regulated investment company~~
14 ~~included in such shareholder's federal taxable income and on which the~~
15 ~~federal tax paid by the regulated investment company is allowed as a credit~~
16 ~~or refund to the shareholder under section 852 of the Code.~~
- 17 ~~(10) Repealed by Session Laws 1987, c. 778, s. 2.~~
- 18 ~~(11) If a deduction for an ordinary and necessary business expense was required~~
19 ~~to be reduced or was not allowed under the Code because the corporation~~
20 ~~claimed a federal tax credit against its federal income tax liability for the~~
21 ~~income year in lieu of a deduction, the amount by which the deduction was~~
22 ~~reduced and the amount of the deduction that was disallowed. This~~
23 ~~deduction is allowed only to the extent that a similar credit is not allowed by~~
24 ~~this Chapter for the amount.~~
- 25 ~~(12) Reasonable expenses, in excess of deductions allowed under the Code, paid~~
26 ~~for reforestation and cultivation of commercially grown trees; provided, that~~
27 ~~this deduction shall be allowed only to those corporations in which the real~~
28 ~~owners of all the shares of such corporation are natural persons actively~~
29 ~~engaged in the commercial growing of trees, or the spouse, siblings, or~~
30 ~~parents of such persons. Provided, further, that in no case shall a corporation~~
31 ~~be allowed a deduction for the same reforestation or cultivation expenditure~~
32 ~~more than once.~~
- 33 ~~(13) The eligible income of an international banking facility to the extent~~
34 ~~included in determining federal taxable income, determined as follows:~~
- 35 ~~a. "International banking facility" shall have the same meaning as is set~~
36 ~~forth in the laws of the United States or regulations of the board of~~
37 ~~governors of the federal reserve system.~~
- 38 ~~b. The eligible income of an international banking facility for the~~
39 ~~taxable year shall be an amount obtained by multiplying State taxable~~
40 ~~income as determined under G.S. 105-130.3 (determined without~~
41 ~~regard to eligible income of an international banking facility and~~
42 ~~allocation and apportionment, if applicable) for such year by a~~
43 ~~fraction, the denominator of which shall be the gross receipts for~~
44 ~~such year derived by the bank from all sources, and the numerator of~~
45 ~~which shall be the adjusted gross receipts for such year derived by~~
46 ~~the international banking facility from:~~
- 47 ~~1. Making, arranging for, placing or servicing loans to foreign~~
48 ~~persons substantially all the proceeds of which are for use~~
49 ~~outside the United States;~~
- 50 ~~2. Making or placing deposits with foreign persons which are~~
51 ~~banks or foreign branches of banks (including foreign~~

- 1 subsidiaries or foreign branches of the taxpayer) or with other
2 international banking facilities; or
- 3 ~~3. Entering into foreign exchange trading or hedging~~
4 ~~transactions related to any of the transactions described in this~~
5 ~~paragraph.~~
- 6 e. ~~The adjusted gross receipts shall be determined by multiplying the~~
7 ~~gross receipts of the international banking facility by a fraction the~~
8 ~~numerator of which is the average amount for the taxable year of all~~
9 ~~assets of the international banking facility which are employed~~
10 ~~outside the United States and the denominator of which is the~~
11 ~~average amount for the taxable year of all assets of the international~~
12 ~~banking facility.~~
- 13 d. ~~For the purposes of this subsection the term "foreign person" means:~~
- 14 ~~1. An individual who is not a resident of the United States;~~
15 ~~2. A foreign corporation, a foreign partnership or a foreign trust,~~
16 ~~as defined in section 7701 of the Code, other than a domestic~~
17 ~~branch thereof;~~
18 ~~3. A foreign branch of a domestic corporation (including the~~
19 ~~taxpayer);~~
20 ~~4. A foreign government or an international organization or an~~
21 ~~agency of either, or~~
22 ~~5. An international banking facility.~~
- 23 ~~For purposes of this paragraph, the terms "foreign" and~~
24 ~~"domestic" shall have the same meaning as set forth in section 7701~~
25 ~~of the Code.~~
- 26 (14) The amount by which the basis of a depreciable asset is required to be
27 reduced under the Code for federal tax purposes because of a tax credit
28 allowed against the corporation's federal income tax liability. This deduction
29 may be claimed only in the year in which the Code requires that the asset's
30 basis be reduced. In computing gain or loss on the asset's disposition, this
31 deduction shall be considered as depreciation.
- 32 (15) ~~The amount paid during the income year, pursuant to 7 U.S.C. § 1445-2, as~~
33 ~~marketing assessments on tobacco grown by the corporation in North~~
34 ~~Carolina.~~
- 35 (16) ~~The amount of natural gas expansion surcharges collected by a natural gas~~
36 ~~local distribution company under G.S. 62-158.~~
- 37 (17) ~~To the extent included in federal taxable income, 911 charges imposed under~~
38 ~~G.S. 62A-43 and remitted to the 911 Fund under that section.~~
- 39 (18) Interest, investment earnings, and gains of a trust, the settlors of which are
40 two or more manufacturers that signed a settlement agreement with this
41 State to settle existing and potential claims of the State against the
42 manufacturers for damages attributable to a product of the manufacturers, if
43 the trust meets all of the following conditions:
- 44 a. ~~The purpose of the trust is to address adverse economic~~
45 ~~consequences resulting from a decline in demand of the~~
46 ~~manufactured product potentially expected to occur because of~~
47 ~~market restrictions and other provisions in the settlement agreement.~~
- 48 b. ~~A court of this State approves and retains jurisdiction over the trust.~~
- 49 e. ~~Certain portions of the distributions from the trust are made in~~
50 ~~accordance with certifications that meet the criteria in the agreement~~

- 1 creating the trust and are provided by a nonprofit entity, the
2 governing board of which includes State officials.
- 3 (19) ~~To the extent included in federal taxable income, the amount paid to the~~
4 ~~taxpayer during the taxable year from the Hurricane Floyd Reserve Fund in~~
5 ~~the Office of State Budget and Management for hurricane relief or~~
6 ~~assistance, but not including payments for goods or services provided by the~~
7 ~~taxpayer.~~
- 8 (20) Royalty payments received from a related member who added the payments
9 to income under G.S. 105-130.7A for the same taxable year.
- 10 (21) In each of the taxpayer's first five taxable years beginning on or after
11 January 1, 2005, an amount equal to twenty percent (20%) of the amount
12 added to taxable income in a previous year as accelerated depreciation under
13 subdivision (a)(15) of this section.
- 14 (21a) **(Effective for taxable years beginning on or after January 1, 2008)** In
15 each of the taxpayer's first five taxable years beginning on or after January 1,
16 2009, an amount equal to twenty percent (20%) of the amount added to
17 taxable income in taxable year 2008 as accelerated depreciation under
18 subdivision (a)(15a) of this section.
- 19 (22) ~~To the extent included in federal taxable income, the amount paid to the~~
20 ~~taxpayer during the taxable year from the Disaster Relief Reserve Fund in~~
21 ~~the Office of State Budget and Management for hurricane relief or~~
22 ~~assistance, but not including payments for goods or services provided by the~~
23 ~~taxpayer.~~
- 24 (23) A dividend received from a captive REIT, as defined in G.S. 105-130.12.
- 25 (24) **(Effective for taxable years beginning on or after January 1, 2008, and**
26 **expiring for taxable years beginning on or after January 1, 2015)** Five
27 percent (5%) of the gross purchase price of a qualified sale of a
28 manufactured home community. A qualified sale is a transfer of land
29 comprising a manufactured home community in a single purchase to a group
30 composed of a majority of the manufactured home community leaseholders
31 or to a nonprofit organization that represents such a group. To be eligible for
32 this deduction, a taxpayer must give notice of the sale to the North Carolina
33 Housing Finance Agency under G.S. 42-14.3.
- 34 (c) The following other adjustments to federal taxable income shall be made in
35 determining State net income:
36 ...
- 37 (5) ~~A savings and loan association may deduct interest earned on deposits at the~~
38 ~~Federal Home Loan Bank of Atlanta, or its successor, to the extent included~~
39 ~~in federal taxable income.~~
- 40 (d) Repealed by Session Laws 1987, c. 778, s. 3.
- 41 (e) Notwithstanding any other provision of this section, any recapture of depreciation
42 required under the Code must be included in a corporation's State net income to the extent
43 required for federal income tax purposes.
- 44 (f) Expired."
- 45 **SECTION 3.** Pursuant to section 1(5) of this act, the study includes a proposed
46 rewrite of G.S. 105-134.5 to read:
47 **"§ 105-134.6. Adjustments to taxable income.**
- 48 (a) S Corporations. – Each shareholder's pro rata share of an S Corporation's income is
49 subject to the adjustments provided in this section.

1 (b) Deductions. – The following deductions from taxable income shall be made in
2 calculating North Carolina taxable income, to the extent each item is included in taxable
3 income:

- 4 (1) Interest upon the obligations of ~~any of the following:~~
5 a. ~~The~~the United States or its possessions.
6 b. ~~This State, a political subdivision of this State, or a commission, an~~
7 ~~authority, or another agency of this State or of a political subdivision~~
8 ~~of this State.~~
9 e. ~~A nonprofit educational institution organized or chartered under the~~
10 ~~laws of this State.~~
- 11 (2) ~~Gain from the disposition of obligations issued before July 1, 1995, to the~~
12 ~~extent the gain is exempt from tax under the laws of this State.~~
- 13 (3) ~~Benefits received under Title II of the Social Security Act and amounts~~
14 ~~received from retirement annuities or pensions paid under the provisions of~~
15 ~~the Railroad Retirement Act of 1937.~~
- 16 (4) Repealed by Session Laws 1989 (Reg. Sess., 1990), c. 1002, s. 2.
- 17 (5) Refunds of state, local, and foreign income taxes included in the taxpayer's
18 gross income.
- 19 (5a) Reserved.
- 20 (5b) The amount received during the taxable year from one or more State, local,
21 or federal government retirement plans to the extent the amount is exempt
22 from tax under this Part pursuant to a court order in settlement of the
23 following cases: Bailey v. State, 92 CVS 10221, 94 CVS 6904, 95 CVS
24 6625, 95 CVS 8230; Emory v. State, 98 CVS 0738; and Patton v. State, 95
25 CVS 04346. Amounts deducted under this subdivision may not also be
26 deducted under subdivision (6) of this subsection.
- 27 (6) a. ~~An amount, not to exceed four thousand dollars (\$4,000), equal to the~~
28 ~~sum of the amount calculated in subparagraph b. plus the amount~~
29 ~~calculated in subparagraph e.~~
30 b. ~~The amount calculated in this subparagraph is the amount received~~
31 ~~during the taxable year from one or more state, local, or federal~~
32 ~~government retirement plans.~~
33 e. ~~The amount calculated in this subparagraph is the amount received~~
34 ~~during the taxable year from one or more retirement plans other than~~
35 ~~state, local, or federal government retirement plans, not to exceed a~~
36 ~~total of two thousand dollars (\$2,000) in any taxable year.~~
- 37 d. ~~In the case of a married couple filing a joint return where both~~
38 ~~spouses received retirement benefits during the taxable year, the~~
39 ~~maximum dollar amounts provided in this subdivision for various~~
40 ~~types of retirement benefits apply separately to each spouse's~~
41 ~~benefits.~~
- 42 (7) Recodified as G.S. 105-134.6(d)(1).
- 43 (8) Recodified as G.S. 105-134.6(d)(2).
- 44 (9) Income that is (i) earned or received by an enrolled member of a federally
45 recognized Indian tribe and (ii) derived from activities on a federally
46 recognized Indian reservation while the member resides on the reservation.
47 Income from intangibles having a situs on the reservation and retirement
48 income associated with activities on the reservation are considered income
49 derived from activities on the reservation.

- 1 (10) The amount by which the basis of property under this Article exceeds the
2 basis of the property under the Code, in the year the taxpayer disposes of the
3 property.
- 4 ~~(11) Severance wages received by a taxpayer from an employer as the result of
5 the taxpayer's permanent, involuntary termination from employment through
6 no fault of the employee. The amount of severance wages deducted as the
7 result of the same termination may not exceed thirty five thousand dollars
8 (\$35,000) for all taxable years in which the wages are received.~~
- 9 (12) Repealed by Session Laws 1998-171, s. 2, effective October 1, 1998.
- 10 (13) Repealed by Session Laws 2002-126, s. 30C.4, effective for taxable years
11 beginning on or after January 1, 2002.
- 12 ~~(14) The amount paid to the taxpayer by the State under G.S. 148-84 as
13 compensation for pecuniary loss suffered by reason of erroneous conviction
14 and imprisonment.~~
- 15 (15) Interest, investment earnings, and gains of a trust, the settlors of which are
16 two or more manufacturers that signed a settlement agreement with this
17 State to settle existing and potential claims of the State against the
18 manufacturers for damages attributable to a product of the manufacturers, if
19 the trust meets all of the following conditions:
- 20 a. ~~The purpose of the trust is to address adverse economic
21 consequences resulting from a decline in demand of the
22 manufactured product potentially expected to occur because of
23 market restrictions and other provisions in the settlement agreement.~~
- 24 b. ~~A court of this State approves and retains jurisdiction over the trust.~~
- 25 e. ~~Certain portions of the distributions from the trust are made in
26 accordance with certifications that meet the criteria in the agreement
27 creating the trust and are provided by a nonprofit entity, the
28 governing board of which includes State officials.~~
- 29 (16) ~~The amount paid to the taxpayer during the taxable year from the Hurricane
30 Floyd Reserve Fund in the Office of State Budget and Management for
31 hurricane relief or assistance, but not including payments for goods or
32 services provided by the taxpayer.~~
- 33 (17) In each of the taxpayer's first five taxable years beginning on or after
34 January 1, 2005, an amount equal to twenty percent (20%) of the amount
35 added to taxable income in a previous year as accelerated depreciation under
36 subdivision (c)(8) of this section.
- 37 (17a) **(Effective for taxable years beginning on or after January 1, 2008)** In
38 each of the taxpayer's first five taxable years beginning on or after January 1,
39 2009, an amount equal to twenty percent (20%) of the amount added to
40 taxable income in taxable year 2008 as accelerated depreciation under
41 subdivision (c)(8a) of this section.
- 42 (18) ~~The amount paid to the taxpayer during the taxable year from the Disaster
43 Relief Reserve Fund in the Office of State Budget and Management for
44 hurricane relief or assistance, but not including payments for goods or
45 services provided by the taxpayer.~~
- 46 (19) **(Effective for taxable years beginning on or after January 1, 2008 and
47 expires for taxable years beginning on or after January 1, 2015)** Five
48 percent (5%) of the gross purchase price of a qualified sale of a
49 manufactured home community. A qualified sale is a transfer of land
50 comprising a manufactured home community in a single purchase to a group
51 composed of a majority of the manufactured home community leaseholders

1 or to a nonprofit organization that represents such a group. To be eligible for
2 this deduction, a taxpayer must give notice of the sale to the North Carolina
3 Housing Finance Agency under G.S. 42-14.3.

4 ...
5 (d) Other Adjustments. – The following adjustments to taxable income shall be made in
6 calculating North Carolina taxable income:

7 (1) The amount of inheritance or estate tax attributable to an item of income in
8 respect of a decedent required to be included in gross income under the
9 Code, adjusted as provided in G.S. 105-134.5, 105-134.6, and 105-134.7,
10 may be deducted in the year the item of income is included. The amount of
11 inheritance or estate tax attributable to an item of income in respect of a
12 decedent is (i) the amount by which the inheritance or estate tax paid under
13 Article 1 or 1A of this Chapter on property transferred to a beneficiary by a
14 decedent exceeds the amount of the tax that would have been payable by the
15 beneficiary if the item of income in respect of a decedent had not been
16 included in the property transferred to the beneficiary by the decedent, (ii)
17 multiplied by a fraction, the numerator of which is the amount required to be
18 included in gross income for the taxable year under the Code, adjusted as
19 provided in G.S. 105-134.5, 105-134.6, and 105-134.7, and the denominator
20 of which is the total amount of income in respect of a decedent transferred to
21 the beneficiary by the decedent. For an estate or trust, the deduction allowed
22 by this subdivision shall be computed by excluding from the gross income of
23 the estate or trust the portion, if any, of the items of income in respect of a
24 decedent that are properly paid, credited, or to be distributed to the
25 beneficiaries during the taxable year.

26 The Secretary may provide to a beneficiary of an item of income in
27 respect of a decedent any information contained on an inheritance or estate
28 tax return that the beneficiary needs to compute the deduction allowed by
29 this subdivision.

30 ~~(2) The taxpayer may deduct the amount by which the taxpayer's deductions~~
31 ~~allowed under the Code were reduced, and the amount of the taxpayer's~~
32 ~~deductions that were not allowed, because the taxpayer elected a federal tax~~
33 ~~credit in lieu of a deduction. This deduction is allowed only to the extent that~~
34 ~~a similar credit is not allowed by this Chapter for the amount.~~

35 (3) The taxpayer shall add to taxable income the amount of any recovery during
36 the taxable year not included in taxable income, to the extent the taxpayer's
37 deduction of the recovered amount in a prior taxable year reduced the
38 taxpayer's tax imposed by this Part but, due to differences between the Code
39 and this Part, did not reduce the amount of the taxpayer's tax imposed by the
40 Code. The taxpayer may deduct from taxable income the amount of any
41 recovery during the taxable year included in taxable income under section
42 111 of the Code, to the extent the taxpayer's deduction of the recovered
43 amount in a prior taxable year reduced the taxpayer's tax imposed by the
44 Code but, due to differences between the Code and this Part, did not reduce
45 the amount of the taxpayer's tax imposed by this Part.

46 ~~(4) (Effective for taxable years beginning on or after January 1, 2007 and~~
47 ~~beginning before January 1, 2012) A taxpayer may deduct from taxable~~
48 ~~income the amount, not to exceed two thousand five hundred dollars~~
49 ~~(\$2,500), contributed to an account in the Parental Savings Trust Fund of the~~
50 ~~State Education Assistance Authority established pursuant to~~

~~G.S. 116-209.25. In the case of a married couple filing a joint return, the maximum dollar amount of the deduction is five thousand dollars (\$5,000).
 (4) ~~(Effective for taxable years beginning on or after January 1, 2012) A taxpayer whose adjusted gross income (AGI), as calculated under the Code, is less than the amount listed in this subdivision may deduct from taxable income the amount, not to exceed two thousand five hundred dollars (\$2,500), contributed to an account in the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25. In the case of a married couple filing a joint return, the maximum dollar amount of the deduction is five thousand dollars (\$5,000).~~~~

Filing Status	AGI
Married, filing jointly	\$100,000
Head of Household	80,000
Single	60,000
Married, filing separately	50,000

~~(5) The taxpayer shall add to taxable income the amount deducted from taxable income in a prior taxable year under subdivision (4) of this subsection to the extent this amount was withdrawn from the Parental Savings Trust Fund of the State Education Assistance Authority established pursuant to G.S. 116-209.25 and not used to pay for the qualified higher education expenses of the designated beneficiary, unless the withdrawal was made without penalty under section 529 of the Code due to the death or permanent disability of the designated beneficiary.~~

~~(6) A taxpayer who is an eligible firefighter or an eligible rescue squad worker may deduct from taxable income the sum of two hundred fifty dollars (\$250.00). In the case of a married couple filing a joint return, each spouse may qualify separately for the deduction allowed under this subdivision. In order to claim the deduction allowed under this subdivision, the taxpayer must submit with the tax return any documentation required by the Secretary. An individual may not claim a deduction as both an eligible firefighter and as an eligible rescue squad worker in a single taxable year. The following definitions apply in this subdivision:~~

- ~~a. Eligible firefighter.—An unpaid member of a volunteer fire department who attended at least 36 hours of fire department drills and meetings during the taxable year.~~
- ~~b. Eligible rescue squad worker.—An unpaid member of a volunteer rescue or emergency medical services squad who attended at least 36 hours of rescue squad training and meetings during the taxable year."~~

SECTION 4. Pursuant to section 1(7) of this act, the study includes a proposed rewrite of G.S. 105-164.13 to read:

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

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

Agricultural Group:

~~(1) Any of the following items sold to a farmer for use by the farmer in the planting, cultivating, harvesting, or curing of farm crops or in the production of dairy products, eggs, or animals. A "farmer" includes a dairy operator, a poultry farmer, an egg producer, a livestock farmer, a farmer of crops, and a farmer of an aquatic species, as defined in G.S. 106-758.~~

- ~~a. Commercial fertilizer, lime, land plaster, plastic mulch, plant bed covers, potting soil, baler twine, and seeds.~~

- 1 b. ~~Farm machinery, attachment and repair parts for farm machinery,
2 and lubricants applied to farm machinery. The term "machinery"
3 includes implements that have moving parts or are operated or drawn
4 by an animal. The term does not include implements operated wholly
5 by hand or motor vehicles required to be registered under Chapter 20
6 of the General Statutes.~~
- 7 e. ~~A horse or mule.~~
- 8 d. ~~(Effective until July 1, 2010—see notes) Fuel other than electricity.~~
- 9 d. ~~(Effective July 1, 2010—see notes) Fuel.~~
- 10 (1a) ~~Sales of the following to a farmer, as defined in subdivision (1) of this
11 section:~~
- 12 a. ~~A container used for a purpose set out in subdivision (1) of this
13 section or in packaging and transporting the farmer's product for sale.~~
- 14 b. ~~A grain, feed, or soybean storage facility, and parts and accessories
15 attached to the facility.~~
- 16 (1b) ~~(Effective July 1, 2010—see notes) Electricity sold to a farmer to be used
17 for any farming purpose other than preparing food, heating dwellings, and
18 other household purposes.~~
- 19 (2) ~~Repealed by Session Laws 2001, c. 514, s. 1, effective February 1, 2002.~~
- 20 (2a) ~~Any of the following substances when purchased for use on animals or
21 plants, as appropriate, held or produced for commercial purposes. This
22 exemption does not apply to any equipment or devices used to administer,
23 release, apply, or otherwise dispense these substances:~~
- 24 a. ~~Remedies, vaccines, medications, litter materials, and feeds for
25 animals.~~
- 26 b. ~~Rodenticides, insecticides, herbicides, fungicides, and pesticides.~~
- 27 e. ~~Defoliant for use on cotton or other crops.~~
- 28 d. ~~Plant growth inhibitors, regulators, or stimulators, including systemic
29 and contact or other sucker control agents for tobacco and other
30 crops.~~
- 31 e. ~~Semen.~~
- 32 (3) ~~Products of forests and mines in their original or unmanufactured state when
33 such sales are made by the producer in the capacity of producer.~~
- 34 (4) ~~Cotton, tobacco, peanuts or other farm products sold to manufacturers for
35 further manufacturing or processing.~~
- 36 (4a) ~~Baby chicks and poults sold for commercial poultry or egg production.~~
- 37 (4b) ~~Products of a farm sold in their original state by the producer of the products
38 if the producer is not primarily a retail merchant and ice used to preserve
39 agriculture, aquaculture and commercial fishery products until the products
40 are sold at retail.~~
- 41 (4c) ~~Any of the following items concerning the housing, raising, or feeding of
42 animals:~~
- 43 a. ~~Commercially manufactured facilities to be used for commercial
44 purposes for housing, raising, or feeding animals or for housing
45 equipment necessary for these commercial activities.~~
- 46 b. ~~Building materials, supplies, fixtures, and equipment that become a
47 part of and are used in the construction, repair, or improvement of an
48 enclosure or a structure specifically designed, constructed, and used
49 for housing, raising, or feeding animals or for housing equipment
50 necessary for one of these commercial activities.~~

- 1 e. ~~Commercially manufactured equipment, and parts and accessories~~
2 ~~for the equipment, used in a facility that is exempt from tax under~~
3 ~~this subdivision or in an enclosure or a structure whose building~~
4 ~~materials are exempt from tax under this subdivision.~~
- 5 (4d) Any of the following tobacco items:
6 a. ~~The lease or rental of tobacco sheets used in handling tobacco in the~~
7 ~~warehouse and transporting tobacco to and from the warehouse.~~
8 b. ~~A metal flue sold for use in curing tobacco, whether the flue is~~
9 ~~attached to a handfired furnace or used in connection with a~~
10 ~~mechanical burner.~~
11 e. ~~A bulk tobacco barn or rack, parts and accessories attached to the~~
12 ~~tobacco barn or rack, and any similar apparatus, part, or accessory~~
13 ~~used to cure or dry tobacco or another crop.~~
- 14 (4e) ~~Repealed by Session Laws 2006-162, s. 8(b), effective July 24, 2006.~~
- 15 (4f) Sales of the following to a person who is engaged in the commercial logging
16 business:
17 a. ~~Logging machinery. — Logging machinery is machinery used to~~
18 ~~harvest raw forest products for transport to first market.~~
19 b. ~~Attachments and repair parts for logging machinery.~~
20 c. ~~Lubricants applied to logging machinery.~~
21 d. ~~Fuel used to operate logging machinery.~~
22 Industrial Group.
- 23 (5) Manufactured products produced and sold by manufacturers or producers to
24 other manufacturers, producers, or registered retailers or wholesale
25 merchants, for the purpose of resale except as modified by
26 G.S. 105-164.3(51). This exemption does not extend to or include retail sales
27 to users or consumers not for resale.
- 28 (5a) ~~Products that are subject to tax under Article 5F of this Chapter.~~
- 29 (5b) ~~Sales to a telephone company regularly engaged in providing telephone~~
30 ~~service to subscribers on a commercial basis of central office equipment,~~
31 ~~switchboard equipment, private branch exchange equipment, terminal~~
32 ~~equipment other than public pay telephone terminal equipment, and parts~~
33 ~~and accessories attached to the equipment.~~
- 34 (5c) ~~Sales of towers, broadcasting equipment, and parts and accessories attached~~
35 ~~to the equipment to a radio or television company licensed by the Federal~~
36 ~~Communications Commission.~~
- 37 (5d) ~~Sales of broadcasting equipment and parts and accessories attached to the~~
38 ~~equipment to a cable service provider. For the purposes of this subdivision,~~
39 ~~"broadcasting equipment" does not include cable.~~
- 40 (6) ~~Repealed by Session Laws 1989 (Regular Session, 1990), c. 1068, s. 1.~~
- 41 (7) ~~Sales of products of waters in their original or unmanufactured state when~~
42 ~~such sales are made by the producer in the capacity of producer. Fish and~~
43 ~~seafoods are likewise exempt when sold by the fisherman in that capacity.~~
- 44 (8) Sales to a manufacturer of tangible personal property that enters into or
45 becomes an ingredient or component part of tangible personal property that
46 is manufactured. This exemption does not apply to sales of electricity.
- 47 (8a) ~~Sales to a small power production facility, as defined in 16 U.S.C. §~~
48 ~~796(17)(A), of fuel used by the facility to generate electricity.~~
- 49 (9) Boats, fuel oil, lubricating oils, machinery, equipment, nets, rigging, paints,
50 parts, accessories, and supplies sold to any of the following:

- 1 a. ~~The holder of a standard commercial fishing license issued under~~
2 ~~G.S. 113-168.2 for principal use in commercial fishing operations.~~
- 3 b. ~~The holder of a shellfish license issued under G.S. 113-169.2 for~~
4 ~~principal use in commercial shellfishing operations.~~
- 5 e. ~~The operator of a for-hire boat, as defined in G.S. 113-174, for~~
6 ~~principal use in the commercial use of the boat.~~
- 7 (10) ~~Sales of the following to commercial laundries or to pressing and dry~~
8 ~~cleaning establishments:~~
- 9 a. ~~Articles establishments of articles or materials used for the~~
10 ~~identification of garments being laundered or dry cleaned, wrapping~~
11 ~~paper, bags, hangers, starch, soaps, detergents, cleaning fluids and~~
12 ~~other compounds or chemicals applied directly to the garments in the~~
13 ~~direct performance of the laundering or the pressing and cleaning~~
14 ~~service.~~
- 15 b. ~~Laundry and dry cleaning machinery, parts and accessories attached~~
16 ~~to the machinery, and lubricants applied to the machinery.~~
- 17 e. ~~Fuel, other than electricity, used in the direct performance of the~~
18 ~~laundering or the pressing and cleaning service.~~
- 19 Motor Fuels Group.
- 20 (10a) ~~Sales of the following to a major recycling facility:~~
- 21 a. ~~Lubricants and other additives for motor vehicles or machinery and~~
22 ~~equipment used at the facility.~~
- 23 b. ~~Materials, supplies, parts, and accessories, other than machinery and~~
24 ~~equipment, that are not capitalized by the taxpayer and are used or~~
25 ~~consumed in the manufacturing and material handling processes at~~
26 ~~the facility.~~
- 27 e. ~~Electricity used at the facility.~~
- 28 (10b) ~~Recodified as G.S. 105-164.13(10a)c. by Session Laws 2005-276, s. 33.9,~~
29 ~~effective January 1, 2006.~~
- 30 (11) Any of the following fuel:
- 31 a. Motor fuel, as defined in G.S. 105-449.60, except motor fuel for
32 which a refund of the per gallon excise tax is allowed under
33 G.S. 105-449.105A or G.S. 105-449.107.
- 34 b. Alternative fuel taxed under Article 36D of this Chapter, unless a
35 refund of that tax is allowed under G.S. 105-449.107.
- 36 (11a) ~~Sales of diesel fuel to railroad companies for use in rolling stock other than~~
37 ~~motor vehicles. The definitions in G.S. 105-333 apply in this subdivision.~~
- 38 Medical Group.
- 39 (12) Sales of any of the following items:
- 40 a. ~~Prosthetic devices.~~
- 41 b. ~~Mobility enhancing equipment sold on a prescription.~~
- 42 c. ~~Durable medical equipment sold on prescription.~~
- 43 d. ~~Durable medical supplies sold on prescription.~~
- 44 (13) ~~All of the following drugs, including their packaging materials and any~~
45 ~~instructions or information about the drugs included in the package with~~
46 ~~them:~~
- 47 a. ~~Drugs required by federal law to be dispensed only on prescription.~~
- 48 b. ~~Over the counter drugs sold on prescription.~~
- 49 c. ~~Insulin.~~
- 50 (13a) ~~Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 16.~~
- 51 (13b) ~~Repealed by Session Laws 1999, c. 438, s. 7, effective October 1, 1999.~~

- 1 b. A container that is used as packaging by the owner of the container
2 or another person to enclose tangible personal property for delivery
3 to a purchaser of the property and is required to be returned to its
4 owner for reuse.
- 5 (24) Sales of fuel and other items of tangible personal property for use or
6 consumption by or on ocean-going vessels which ply the high seas in
7 interstate or foreign commerce in the transport of freight and/or passengers
8 for hire exclusively, when delivered to an officer or agent of such vessel for
9 the use of such vessel; provided, however, that sales of fuel and other items
10 of tangible personal property made to officers, agents, members of the crew
11 or passengers of such vessels for their personal use shall not be exempted
12 from payment of the sales tax.
- 13 (25) Sales by merchants on the Cherokee Indian Reservation when such
14 merchants are authorized to do business on the Reservation and are paying
15 the tribal gross receipts levy to the Tribal Council.
- 16 (26) Food sold not for profit by public or private school cafeterias within school
17 buildings during the regular school day.
- 18 (26a) Food sold not for profit by a public school cafeteria to a child care center
19 that participates in the Child and Adult Care Food Program of the
20 Department of Public Instruction.
- 21 (27) Meals and food products served to students in dining rooms regularly
22 operated by State or private educational institutions or student organizations
23 thereof.
- 24 (27a) Bread, rolls, and buns sold at a bakery thrift store. A "bakery thrift store" is a
25 retail outlet of a bakery that sells at wholesale over ninety percent (90%) of
26 the items it makes and sells at the retail outlet day-old bread, rolls, and buns
27 returned to it by retailers that acquired these items from the bakery.
- 28 (28) Sales of newspapers by newspaper street vendors, by newspaper carriers
29 making door-to-door deliveries, and by means of vending machines and
30 sales of magazines by magazine vendors making door-to-door sales.
- 31 (29) Repealed by Session Laws 2005-435, s. 30, effective September 27, 2005.
- 32 (29a) Repealed by Session Laws 1995 (Regular Session, 1996), c. 646, s. 5.
- 33 (30) Sales from vending machines when sold by the owner or lessee of said
34 machines at a price of one cent (1¢) per sale.
- 35 (31) Sales of meals not for profit to elderly and incapacitated persons by
36 charitable or religious organizations not operated for profit which are
37 entitled to the refunds provided by G.S. 105-164.14(b), when such meals are
38 delivered to the purchasers at their places of abode.
- 39 (31a) Food sold by a church or religious organization not operated for profit when
40 the proceeds of the sales are actually used for religious activities.
- 41 (31b) Repealed by Session Laws 1996, Second Extra Session, c. 14, s. 16.
- 42 (32) Sales of motor vehicles, the sale of a motor vehicle body to be mounted on a
43 motor vehicle chassis when a certificate of title has not been issued for the
44 chassis, and the sale of a motor vehicle body mounted on a motor vehicle
45 chassis that temporarily enters the State so the manufacturer of the body can
46 mount the body on the chassis.
- 47 (33) Tangible personal property purchased solely for the purpose of export to a
48 foreign country for exclusive use or consumption in that or some other
49 foreign country, either in the direct performance or rendition of professional
50 or commercial services, or in the direct conduct or operation of a trade or
51 business, all of which purposes are actually consummated, or purchased by

1 the government of a foreign country for export which purpose is actually
2 consummated. "Export" shall include the acts of possessing and marshalling
3 such property, by either the seller or the purchaser, for transportation to a
4 foreign country, but shall not include devoting such property to any other
5 use in North Carolina or the United States. "Foreign country" shall not
6 include any territory or possession of the United States.

7 In order to qualify for this exemption, an affidavit of export indicating
8 compliance with the terms and conditions of this exemption, as prescribed
9 by the Secretary of Revenue, must be submitted by the purchaser to the
10 seller, and retained by the seller to evidence qualification for the exemption.

11 If the purposes qualifying the property for exemption are not
12 consummated, the purchaser shall be liable for the tax which was avoided by
13 the execution of the aforesaid affidavit as well as for applicable penalties and
14 interest and the affidavit shall contain express provision that the purchaser
15 has recognized and assumed such liability.

16 The principal purpose of this exemption is to encourage the flow of
17 commerce through North Carolina ports that is now moving through
18 out-of-state ports. However, it is not intended that property acquired for
19 personal use or consumption by the purchaser, including gifts, shall be
20 exempt hereunder.

21 (33a) Tangible personal property sold by a retailer to a purchaser within or without
22 this State, when the property is delivered in this State to a common carrier or
23 to the United States Postal Service for delivery to the purchaser or the
24 purchaser's designees outside this State and the purchaser does not
25 subsequently use the property in this State.

26 ~~(34) Sales of items by a nonprofit civic, charitable, educational, scientific or~~
27 ~~literary organization when the net proceeds of the sales will be given or~~
28 ~~contributed to the State of North Carolina or to one or more of its agencies~~
29 ~~or instrumentalities, or to one or more nonprofit charitable organizations,~~
30 ~~one of whose purposes is to serve as a conduit through which such net~~
31 ~~proceeds will flow to the State or to one or more of its agencies or~~
32 ~~instrumentalities.~~

33 ~~(35) Sales by a nonprofit civic, charitable, educational, scientific, literary, or~~
34 ~~fraternal organization when all of the following conditions are met:~~

35 a. ~~The sales are conducted only upon an annual basis for the purpose of~~
36 ~~raising funds for the organization's activities.~~

37 b. ~~The proceeds of the sale are actually used for the organization's~~
38 ~~activities.~~

39 e. ~~The products sold are delivered to the purchaser within 60 days after~~
40 ~~the first solicitation of any sale made during the organization's annual~~
41 ~~sales period.~~

42 ~~(36) Advertising supplements and any other printed matter ultimately to be~~
43 ~~distributed with or as part of a newspaper.~~

44 ~~(37) Repealed by Session Laws 2001-424, s. 34.23(a), effective December 1,~~
45 ~~2001, and applicable to sales made on or after that date.~~

46 (38) Food and other items lawfully purchased under the Food Stamp Program, 7
47 U.S.C. § 2011, and supplemental foods lawfully purchased with a food
48 instrument issued under the Special Supplemental Food Program, 42 U.S.C.
49 § 1786, and supplemental foods purchased for direct distribution by the
50 Special Supplemental Food Program.

- 1 ~~(39) Sales of paper, ink, and other tangible personal property to commercial~~
2 ~~printers and commercial publishers for use as ingredients or component parts~~
3 ~~of free distribution periodicals and sales by printers of free distribution~~
4 ~~periodicals to the publishers of these periodicals. As used in this subdivision,~~
5 ~~the term "free distribution periodical" means a publication that is~~
6 ~~continuously published on a periodic basis monthly or more frequently, is~~
7 ~~provided without charge to the recipient, and is distributed in any manner~~
8 ~~other than by mail.~~
- 9 (40) Sales to the Department of Transportation.
- 10 ~~(41) Sales of mobile classrooms to local boards of education or to local boards of~~
11 ~~trustees of community colleges.~~
- 12 (42) Tangible personal property that is purchased by a retailer for resale or is
13 manufactured or purchased by a wholesale merchant for resale and then
14 withdrawn from inventory and donated by the retailer or wholesale merchant
15 to either a governmental entity or a nonprofit organization, contributions to
16 which are deductible as charitable contributions for federal income tax
17 purposes.
- 18 ~~(43) Custom computer software. Custom computer software and the portion of~~
19 ~~prewritten computer software that is modified or enhanced if the~~
20 ~~modification or enhancement is designed and developed to the specifications~~
21 ~~of a specific purchaser and the charges for the modification or enhancement~~
22 ~~are separately stated.~~
- 23 ~~(43a) Computer software delivered electronically or delivered by load and leave.~~
- 24 (44) Piped natural gas. – This item is exempt because it is taxed under Article 5E
25 of this Chapter.
- 26 ~~(45) Sales of the following items to an interstate passenger air carrier for use at its~~
27 ~~hub:~~
- 28 a. ~~Aircraft lubricants, aircraft repair parts, and aircraft accessories.~~
- 29 b. ~~Aircraft simulators for flight crew training.~~
- 30 ~~(45a) Sales to an interstate air business of tangible personal property that becomes~~
31 ~~a component part of or is dispensed as a lubricant into commercial aircraft~~
32 ~~during its maintenance, repair, or overhaul. For the purpose of this~~
33 ~~subdivision, commercial aircraft includes only aircraft that has a certified~~
34 ~~maximum take-off weight of more than 12,500 pounds and is regularly used~~
35 ~~to carry for compensation passengers, commercial freight, or individually~~
36 ~~addressed letters and packages.~~
- 37 ~~(45b) Sales of the following items to an interstate air courier for use at its hub:~~
- 38 a. ~~Aircraft lubricants, aircraft repair parts, and aircraft accessories.~~
- 39 b. ~~Materials handling equipment, racking systems, and related parts and~~
40 ~~accessories for the storage or handling and movement of tangible~~
41 ~~personal property at an airport or in a warehouse or distribution~~
42 ~~facility.~~
- 43 ~~(46) Sales of electricity by a municipality whose only wholesale supplier of~~
44 ~~electric power is a federal agency and who is required by a contract with that~~
45 ~~federal agency to make payments in lieu of taxes.~~
- 46 ~~(47) An amount charged as a deposit on a beverage container that is returnable to~~
47 ~~the vendor for reuse when the amount is refundable or creditable to the~~
48 ~~vendee, whether or not the deposit is separately charged.~~
- 49 ~~(48) An amount charged as a deposit on an aeronautic, automotive, industrial,~~
50 ~~marine, or farm replacement part that is returnable to the vendor for~~
51 ~~rebuilding or remanufacturing when the amount is refundable or creditable~~

- 1 to the vendee, whether or not the deposit is separately charged. This
2 exemption does not include tires or batteries.
- 3 ~~(49) Installation charges when the charges are separately stated.~~
- 4 ~~(49a) Delivery charges for delivery of direct mail if the charges are separately~~
5 ~~stated on an invoice or similar billing document given to the purchaser.~~
- 6 ~~(50) Fifty percent (50%) of the sales price of tangible personal property sold~~
7 ~~through a coin-operated vending machine, other than tobacco.~~
- 8 ~~(51) Water delivered by or through main lines or pipes for either commercial or~~
9 ~~domestic use or consumption.~~
- 10 (52) Items subject to sales and use tax under G.S. 105-164.4, other than
11 electricity, telecommunications service, and ancillary service as defined in
12 G.S. 105-164.4, if all of the following conditions are met:
- 13 a. The items are purchased by a State agency for its own use and in
14 accordance with G.S. 105-164.29A.
- 15 b. The items are purchased pursuant to a valid purchase order issued by
16 the State agency that contains the exemption number of the agency
17 and a description of the property purchased, or the items purchased
18 are paid for with a State-issued check, electronic deposit, credit card,
19 procurement card, or credit account of the State agency.
- 20 c. For all purchases other than by an agency-issued purchase order, the
21 agency must provide to or have on file with the retailer the agency's
22 exemption number.
- 23 ~~(53) Sales to a professional land surveyor of tangible personal property on which~~
24 ~~custom aerial survey data is stored in digital form or is depicted in graphic~~
25 ~~form. Data is custom if it was created to the specifications of the~~
26 ~~professional land surveyor purchasing the property. A professional land~~
27 ~~surveyor is a person licensed as a surveyor under Chapter 89C of the~~
28 ~~General Statutes.~~
- 29 (54) The following telecommunications services and charges:
- 30 a. ~~Telecommunications service that is a component part of or is~~
31 ~~integrated into a telecommunications service that is resold. This~~
32 ~~exemption does not apply to service purchased by a pay telephone~~
33 ~~provider who uses the service to provide pay telephone service.~~
34 ~~Examples of services that are resold include carrier charges for~~
35 ~~access to an intrastate or interstate interexchange network,~~
36 ~~interconnection charges paid by a provider of mobile~~
37 ~~telecommunications service, and charges for the sale of unbundled~~
38 ~~network elements. An unbundled network element is a network~~
39 ~~element, as defined in 47 U.S.C. § 153(29), to which access is~~
40 ~~provided on an unbundled basis pursuant to 47 U.S.C. § 251(e)(3).~~
- 41 b. ~~Pay telephone service.~~
- 42 c. ~~911 charges imposed under G.S. 62A-43 and remitted to the 911~~
43 ~~Fund under that section.~~
- 44 d. ~~Charges for telecommunications service made by a hotel, motel, or~~
45 ~~another entity whose gross receipts are taxable under~~
46 ~~G.S. 105-164.4(a)(3) when the charges are incidental to the~~
47 ~~occupancy of the entity's accommodations.~~
- 48 e. ~~Telecommunications service purchased by a State agency or a unit of~~
49 ~~local government for the North Carolina Information Highway or~~
50 ~~another data network owned or leased by the State or unit of local~~
51 ~~government.~~

- 1 (55) ~~Sales of electricity for use at an eligible Internet data center and eligible~~
2 ~~business property to be located and used at an eligible Internet data center.~~
3 ~~As used in this subdivision, "eligible business property" is property that is~~
4 ~~capitalized for tax purposes under the Code and is used either:~~
- 5 a. ~~For the provision of Internet service or Web search portal services as~~
6 ~~contemplated by G.S. 105-164.3(8e)a., including equipment cooling~~
7 ~~systems for managing the performance of the property.~~
 - 8 b. ~~For the generation, transformation, transmission, distribution, or~~
9 ~~management of electricity, including exterior substations and other~~
10 ~~business personal property used for these purposes.~~
 - 11 e. ~~To provide related computer engineering or computer science~~
12 ~~research.~~

13 ~~If the level of investment required by G.S. 105-164.3(8e)d. is not timely~~
14 ~~made, then the exemption provided under this subdivision is forfeited. If the~~
15 ~~level of investment required by G.S. 105-164.3(8e)d. is timely made but any~~
16 ~~specific eligible business property is not located and used at an eligible~~
17 ~~Internet data center, then the exemption provided for such eligible business~~
18 ~~property under this subdivision is forfeited. If the level of investment~~
19 ~~required by G.S. 105-164.3(8e)d. is timely made but any portion of the~~
20 ~~electricity is not used at an eligible Internet data center, then the exemption~~
21 ~~provided for such electricity under this subdivision is forfeited. A taxpayer~~
22 ~~that forfeits an exemption under this subdivision is liable for all past taxes~~
23 ~~avoided as a result of the forfeited exemption, computed from the date the~~
24 ~~taxes would have been due if the exemption had not been allowed, plus~~
25 ~~interest at the rate established under G.S. 105-241.21. If the forfeiture is~~
26 ~~triggered due to the lack of a timely investment required by~~
27 ~~G.S. 105-164.3(8e)d., then interest is computed from the date the taxes~~
28 ~~would have been due if the exemption had not been allowed. For all other~~
29 ~~forfeitures, interest is computed from the time as of which the eligible~~
30 ~~business property or electricity was put to a disqualifying use. The past taxes~~
31 ~~and interest are due 30 days after the date the exemption is forfeited. A~~
32 ~~taxpayer that fails to pay the past taxes and interest by the due date is subject~~
33 ~~to the provisions of G.S. 105-236.~~

- 34 (56) ~~Sales to the owner or lessee of an eligible railroad intermodal facility of~~
35 ~~intermodal cranes, intermodal hostler trucks, and railroad locomotives that~~
36 ~~reside on the premises of the facility and are used at the facility.~~

- 37 (57) ~~(Effective July 1, 2010 see notes) Fuel and electricity sold to a~~
38 ~~manufacturer for use in connection with the operation of a manufacturing~~
39 ~~facility.~~

- 40 (58) ~~Tangible personal property purchased with a client assistance debit card~~
41 ~~issued for disaster assistance relief by a State agency or a federal agency or~~
42 ~~instrumentality.~~

- 43 (59) ~~Interior design services provided in conjunction with the sale of tangible~~
44 ~~personal property."~~

45 **SECTION 5.** The Revenue Laws Study Committee may make an interim report to
46 the 2010 Regular Session of the 2009 General Assembly and shall make its final report to the
47 2011 General Assembly.

48 **SECTION 6.** This act is effective when it becomes law.