

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

H.B. 1186

May 29, 2012

HOUSE PRINCIPAL CLERK

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HOUSE DRH90235-LBx-474A (09/07)

Short Title: Restore Budget Cuts/Add Temp. Sales Tax. (Public)

Sponsors: Representatives Faison and Hall (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE RESTORATION OF PERSONNEL POSITIONS
3 ELIMINATED IN THE PUBLIC SCHOOLS, THE UNIVERSITY OF NORTH
4 CAROLINA, THE COMMUNITY COLLEGE SYSTEM, AND STATE GOVERNMENT
5 EMPLOYMENT PURSUANT TO THE PROVISIONS OF THE 2011
6 APPROPRIATIONS ACT; TO REDUCE PROGRAM AND SERVICE REDUCTIONS IN
7 MEDICAID AND HEALTH CHOICE; AND TO PROVIDE ADDITIONAL FUNDING
8 TO THE HIGHWAY PATROL AND TO THE SAVINGS RESERVE ACCOUNT, ALL
9 IN THAT ORDER, BY TEMPORARILY INCREASING THE SALES AND USE TAX
10 BY SEVEN-TENTHS OF ONE PERCENT UNTIL JULY 1, 2015.

11 The General Assembly of North Carolina enacts:

12 **SECTION 1.(a)** The introductory language of G.S. 105-164.4(a) reads as
13 rewritten:

14 "(a) A privilege tax is imposed on a retailer at the following percentage rates of the
15 retailer's net taxable sales or gross receipts, as appropriate. The general rate of tax is ~~four and~~
16 ~~three quarters percent (4.75%).~~ five and forty-five hundredths percent (5.45%)."

17 **SECTION 1.(b)** G.S. 105-164.44F(a) reads as rewritten:

18 "(a) Amount. – The Secretary must distribute part of the taxes imposed by
19 G.S. 105-164.4(a)(4c) on telecommunications service and ancillary service. The Secretary must
20 make the distribution within 75 days after the end of each calendar quarter. The amount the
21 Secretary must distribute is the following percentages of the net proceeds of the taxes collected
22 during the quarter:

- 23 (1) ~~Eighteen and seventy one hundredths percent (18.70%)~~ Seventeen percent
24 (17%) minus two million six hundred twenty thousand nine hundred
25 forty-eight dollars (\$2,620,948), must be distributed to cities in accordance
26 with this section. The deduction is one-fourth of the annual amount by which
27 the distribution to cities of the gross receipts franchise tax on telephone
28 companies, imposed by former G.S. 105-20, was required to be reduced
29 beginning in fiscal year 1995-96 as a result of the "freeze deduction."
30 (2) ~~Seven and seven tenths percent (7.7%)~~ Seven percent (7%) must be
31 distributed to counties and cities as provided in G.S. 105-164.44I."

32 **SECTION 1.(c)** G.S. 105-164.44I(a) reads as rewritten:

33 "(a) Distribution. – The Secretary must distribute to the counties and cities part of the
34 taxes imposed by G.S. 105-164.4(a)(4c) on telecommunications service and



1 G.S. 105-164.4(a)(6) on video programming service. The Secretary must make the distribution
2 within 75 days after the end of each calendar quarter. The amount the Secretary must distribute
3 is the sum of the revenue listed in this subsection. The Secretary must distribute two million
4 dollars (\$2,000,000) of this amount in accordance with subsection (b) of this section and the
5 remainder in accordance with subsections (c) and (d) of this section. The revenue to be
6 distributed under this section consists of the following:

7 (1) The amount specified in G.S. 105-164.44F(a)(2).

8 (2) ~~Twenty three and six tenths percent (23.6%)~~ Twenty-one and forty-five
9 hundredths percent (21.45%) of the net proceeds of the taxes collected
10 during the quarter on video programming, other than on direct-to-home
11 satellite service.

12 (3) ~~Thirty seven and one tenths percent (37.1%)~~ Thirty-three and seventy-three
13 hundredths percent (33.73%) of the net proceeds of the taxes collected
14 during the quarter on direct-to-home satellite service."

15 **SECTION 1.(d)** This section does not apply to construction materials purchased to
16 fulfill a lump-sum or unit-price contract entered into or awarded before the effective date of the
17 increase or entered into or awarded pursuant to a bid made before the effective date of the
18 increase when the construction materials would otherwise be subject to the increased rate of tax
19 provided in this section.

20 **SECTION 1.(e)** This section becomes effective June 1, 2012. Subsection (a) of this
21 section applies to sales made on or after June 1, 2012, and subsections (b) and (c) of this
22 section apply to distributions for months beginning on or after June 1, 2012. Subsections (a)
23 through (c) of this section expire July 1, 2015. This section does not affect the rights or
24 liabilities of the State, a taxpayer, or another person arising under a statute amended or repealed
25 by this section before the effective date of its amendment or repeal, nor does it affect the right
26 to any refund or credit of a tax that accrued under the amended or repealed statute before the
27 effective date of its amendment or repeal.

28 **SECTION 2.(a)** Effective June 1, 2012, the additional revenues accruing to the
29 State from the temporary additional sales tax enacted in Section 1 of this act are appropriated
30 only for the following purposes, in this order of priority, and notwithstanding the provisions of
31 S.L. 2011-145:

32 (1) First priority. –

33 a. To restore reductions in State funding affecting the constituent
34 institutions of The University of North Carolina, the North Carolina
35 Community College System, and local school administrative units,
36 with the restoration funds to be allocated as follows:

37 1. Public schools. – The sum of ninety-five million eight
38 hundred fourteen thousand nine hundred fifty dollars
39 (\$95,814,950) for the 2012-2013 fiscal year shall be allocated
40 to the State Board of Education to be distributed to local
41 school administrative units on the basis of average daily
42 membership. Expenditures of these funds shall be limited to
43 the salaries and benefits of public school personnel.

44 2. Community colleges. – The sum of nineteen million six
45 hundred ninety-seven thousand seven hundred eighty-eight
46 dollars (\$19,697,788) for the 2012-2013 fiscal year shall be
47 allocated to the North Carolina Community College System.
48 Expenditures of these funds shall be limited to the salaries
49 and benefits of community colleges personnel.

50 3. The University of North Carolina. – The sum of one hundred
51 eighty-two million eight hundred forty thousand dollars

1 (\$182,840,000) for the 2012-2013 fiscal year shall be
2 allocated to the Board of Governors of The University of
3 North Carolina. Expenditures of these funds shall be limited
4 to the salaries and benefits of university personnel.

5 b. To rehire and reinstate employees whose State personnel positions
6 were eliminated in the executive, judicial, and legislative branches
7 under the provisions of S.L. 2011-145, allocated in the amount of
8 twenty-four million eighty-one thousand four hundred forty-four
9 dollars (\$24,081,444) for the 2012-2013 fiscal year. Expenditures of
10 these funds shall be limited to the salaries and benefits of State
11 employees.

12 (2) Second priority. – To restore funding to Medicaid and Health Choice in
13 order to lessen the impact of program and service reductions made to those
14 programs by S.L. 2011-145. Restoration funds shall be allocated as follows:

15 a. For Medicaid, the sum of four hundred fifty-four million dollars
16 (\$454,000,000) for the 2012-2013 fiscal year.

17 b. For Health Choice, the sum of six million six hundred thousand
18 dollars (\$6,600,000) for the 2012-2013 fiscal year.

19 (3) Third priority. – To restore reductions to the Highway Patrol budget for
20 uniforms. Restoration funds shall be allocated in the amount of one million
21 one hundred thousand dollars (\$1,100,000) for the 2012-2013 fiscal year.

22 (4) Fourth priority. – To increase the balance of the Savings Reserve Account
23 for the purposes set out in G.S. 143C-4-2.

24 **SECTION 2.(b)** For personnel positions that are reestablished or created by the
25 funding restoration provided by this act, the employment of persons to fill those positions shall
26 be accomplished in accordance with applicable policies of the hiring entity to encourage the
27 reemployment of former employees who were reduced in force due to budget reductions
28 imposed by S.L. 2011-145.

29 **SECTION 2.(c)** The Governor shall take all steps necessary to carry out the
30 purposes of this act, except that the Governor is not required to restore any position that the
31 Governor finds to have been eliminated as part of agency transfers or consolidations made
32 primarily to achieve organizational and programmatic efficiencies and not primarily to effect
33 savings pursuant to S.L. 2011-145 or other legislation enacted by the 2011 General Assembly.

34 **SECTION 2.(d)** The Chief Justice of the Supreme Court shall take all steps
35 necessary to execute the restorations required by this act in the judicial branch, except that the
36 Chief Justice is not required to restore any position that the Chief Justice finds to have been
37 eliminated as part of transfers or consolidations made primarily to achieve organizational and
38 programmatic efficiencies and not primarily to effect savings pursuant to S.L. 2011-145 or
39 other legislation enacted by the 2011 General Assembly.

40 **SECTION 2.(e)** The Legislative Services Officer shall take all steps necessary to
41 execute the restorations required by this act in the legislative branch, except that the Legislative
42 Services Officer is not required to restore any position that the Officer finds to have been
43 eliminated as part of transfers or consolidations made primarily to achieve organizational and
44 programmatic efficiencies and not primarily to effect savings pursuant to S.L. 2011-145 or
45 other legislation enacted by the 2011 General Assembly.

46 **SECTION 2.(f)** There is established in the Office of State Budget and Management
47 the Jobs, Health, and Education Restoration Fund (Fund) for the purpose of restoring budget
48 reductions in accordance with this act. All revenue accruing to the State from the temporary
49 additional sales tax enacted in this act shall be credited to the Fund. Monies from the Fund shall
50 not be expended or transferred for any other purpose.

1 Beginning July 1, 2012, and quarterly thereafter, the Office of State Budget and
2 Management shall report to the Joint Legislative Commission on Governmental Operations and
3 to the Fiscal Research Division on disbursements from the Fund and on the progress made in
4 accomplishing the purposes of this act.

5 **SECTION 2.(g)** This section becomes effective June 1, 2012.

6 **SECTION 3.** Except as otherwise provided, this act is effective when it becomes
7 law.