



1           c.     Enables the origination of calls by means of an access number,  
2                     authorization code, or another similar means, regardless of  
3                     whether the access number or authorization code is manually or  
4                     electronically dialed.

5           d.     Is sold in units or dollars whose number or dollar value declines  
6                     with use and is known on a continuous basis.

7           ...

8     (16b) Service address. – The location of the telecommunications equipment  
9             from which a customer originates or receives telecommunications  
10            service. In the case of mobile telecommunications service, maritime  
11            systems, third-number calls, calling card calls, and other similar  
12            services for which the location of the equipment cannot be determined  
13            as part of the billing process, the telecommunications service provider  
14            may determine the location of the equipment based upon the  
15            customer's telephone number, the mailing address to which the bills  
16            are sent, or a street address provided by the customer if the street  
17            address is within the licensed service area of the service provider. In  
18            the case of telecommunications service paid through a payment  
19            mechanism that does not relate to the location of the equipment, such  
20            as a bank, travel, debit, or credit card, the service address is the address  
21            of the central office as determined by the area code and the first three  
22            digits of the seven digit originating telephone number.

23           ...

24     (21a) Telecommunications service. – The transmission, conveyance, or  
25             routing of voice, data, audio, video, or any other information or signals  
26             to a point, or between or among points, by or through any electronic,  
27             radio, satellite, optical, microwave, or other medium, regardless of the  
28             protocol used for the transmission, conveyance, or routing. The term  
29             includes mobile telecommunications service and vertical services.  
30             Vertical services are switch-based services offered in connection with  
31             a telecommunications service, such as call forwarding services, caller  
32             ID services, and three-way calling services."

33     **SECTION 2.** G.S. 105-164.3(8c) is recodified as G.S. 105-164.3(8d), and  
34 G.S. 105-164.3(8b) is recodified as G.S. 105-164.3(8c).

35     **SECTION 3.** G.S. 105-164.3(25) is repealed.

36     **SECTION 4.** G.S. 105-164.4(a)(4a) reads as rewritten:

37     "(4a) ~~The rate of three percent (3%) applies to the gross receipts derived by~~  
38             ~~a utility from sales of electricity or local telecommunications service~~  
39             ~~as defined by G.S. 105-120(e), electricity, other than sales of~~  
40             ~~electricity subject to tax under another subdivision in this section.~~  
41             ~~Gross receipts from sales of local telecommunications service do not~~  
42             ~~include receipts from service provided by means of public coin-~~  
43             ~~operated pay telephone instruments and paid for by coin. A person~~

1 who ~~operates a utility~~ sells electricity is considered a retailer under this  
2 Article."

3 **SECTION 5.** G.S. 105-164.4(a)(4c) reads as rewritten:

4 "(4c) The rate of ~~six and one-half percent (6 1/2%)~~ four and one-half percent  
5 (4.5%) applies to the gross receipts derived from providing ~~toll~~  
6 ~~telecommunications services or private telecommunications services as~~  
7 ~~defined by G.S. 105-120(e) that both originate from and terminate in~~  
8 ~~the State and are not subject to the privilege tax under G.S. 105-~~  
9 ~~120.~~ service. A person who provides telecommunications service is  
10 considered a retailer under this Article. Telecommunications service is  
11 taxed in accordance with G.S. 105-164.4B. Any business entity that  
12 provides these services is considered a retailer under this Article. This  
13 subdivision does not apply to telephone membership corporations as  
14 described in Chapter 117 of the General Statutes."

15 **SECTION 6.** G.S. 105-164.4(a) is amended by adding a new subdivision to

16 read:

17 "(4d) The sale or recharge of prepaid telephone calling arrangements is  
18 taxable at the rate set in subdivision (a)(1) of this section for sales of  
19 tangible personal property. The tax applies regardless of whether  
20 tangible personal property, such as a card or a telephone, is transferred.  
21 Prepaid telephone calling arrangements taxed under this subdivision  
22 are not subject to tax as a telecommunications service.

23 Prepaid telephone calling arrangements are taxable at the point of  
24 sale instead of at the point of use. If the sale or recharge of a prepaid  
25 telephone calling arrangement does not take place at a retailer's place  
26 of business, the sale or recharge is considered to have taken place at  
27 one of the following:

- 28 a. The customer's shipping address, if an item of tangible personal  
29 property is shipped to the customer as part of the transaction.  
30 b. The customer's billing address or, for mobile  
31 telecommunications service, the customer's service address, if  
32 no tangible personal property is shipped to the customer as part  
33 of the transaction."

34 **SECTION 7.** Part 2 of Article 5 of Chapter 105 of the General Statutes is  
35 amended by adding a new section to read:

36 "**§ 105-164.4B. Tax on telecommunications.**

37 (a) General. – The gross receipts derived from providing telecommunications  
38 service in this State are taxed at the rate set in G.S. 105-164.4(a)(4c). Mobile  
39 telecommunications service is provided in this State if the customer's service address is  
40 in this State and the call originates or terminates in this State.

41 (b) Included in Gross Receipts. – Gross receipts derived from  
42 telecommunications service include the following:

- 43 (1) Receipts from local, intrastate, interstate, toll, private, and mobile  
44 telecommunications service.

- 1           (2) Charges for directory assistance, directory listing that is not yellow-  
2           page classified listing, call forwarding, call waiting, three-way calling,  
3           caller ID, and other similar services.
- 4           (3) Customer access line charges billed to subscribers for access to the  
5           intrastate or interstate interexchange network.
- 6           (4) Charges billed to a pay telephone provider who uses the  
7           telecommunications service to provide pay telephone service.
- 8       (c) Excluded From Gross Receipts. – Gross receipts derived from  
9       telecommunications service do not include any of the following:
- 10       (1) Charges for telecommunications services that are a component part of  
11       or are integrated into a telecommunications service that is resold.  
12       Examples of services that are resold include carrier charges for access  
13       to an intrastate or interstate interexchange network, interconnection  
14       charges paid by a provider of mobile telecommunications service, and  
15       charges for the sale of unbundled network elements. An unbundled  
16       network element is a network element, as defined in 47 U.S.C. §  
17       153(29), to which access is provided on an unbundled basis pursuant  
18       to 47 U.S.C. § 251(c)(3).
- 19       (2) Telecommunications services that are resold as part of a prepaid  
20       telephone calling arrangement.
- 21       (3) 911 charges imposed under G.S. 62A-4 or G.S. 62A-23 and remitted to  
22       the Emergency Telephone System Fund under G.S. 62A-7 or the  
23       Wireless Fund under G.S. 62A-24.
- 24       (4) Allowable surcharges imposed to recoup assessments for the Universal  
25       Service Fund.
- 26       (5) Receipts of a pay telephone provider from the sale of pay telephone  
27       service.
- 28       (6) Charges for commercial, cable, mobile, broadcast, or satellite video or  
29       audio service unless the service provides two-way communication,  
30       other than the customer's interactive communication in connection  
31       with the customer's selection or use of the video or audio service.
- 32       (7) Paging service, unless the service provides two-way communication.
- 33       (8) Charges for telephone service made by a hotel, motel, or another entity  
34       whose gross receipts are taxable under G.S. 105-164.4(a)(3) when the  
35       charges are incidental to the occupancy of the entity's  
36       accommodations.
- 37       (9) Receipts from the sale, installation, maintenance, or repair of tangible  
38       personal property.
- 39       (10) Directory advertising and yellow-page classified listings.
- 40       (11) Voicemail services.
- 41       (12) Information services. – An information service is a service that can  
42       generate, acquire, store, transform, process, retrieve, use, or make  
43       available information through a communications service. Examples of

1 an information service include an electronic publishing service and a  
2 web hosting service.

3 (13) Internet access service, electronic mail service, electronic bulletin  
4 board service, or similar on-line services.

5 (14) Billing and collection services.

6 (15) Charges for bad checks or late payments.

7 (d) Bundled Services. – When a taxable telecommunications service is bundled  
8 with a service that is not taxable, the tax applies to the gross receipts from the taxable  
9 service in the bundle as follows:

10 (1) If the service provider offers all the services in the bundle on an  
11 unbundled basis, tax is due on the unbundled price of the taxable  
12 service, less the discount resulting from the bundling. The discount for  
13 a service as the result of bundling is the proportionate price decrease of  
14 the service, determined on the basis of the total unbundled price of all  
15 the services in the bundle compared to the bundled price of the  
16 services.

17 (2) If the service provider does not offer one or more of the services in the  
18 bundle on an unbundled basis, tax is due on the taxable service based  
19 on a reasonable allocation of revenue to that service. If the service  
20 provider maintains an account for revenue from a taxable service, the  
21 service provider's allocation of revenue to that service for the purpose  
22 of determining the tax due on the service must reflect its accounting  
23 allocation of revenue to that service.

24 (e) Interstate Private Line. – The gross receipts derived from interstate private  
25 telecommunications service are taxable as follows:

26 (1) One hundred percent (100%) of the charge imposed at each channel  
27 termination point in this State.

28 (2) One hundred percent (100%) of the charge imposed for the total  
29 channel mileage between each channel termination point in this State.

30 (3) Fifty percent (50%) of the charge imposed for the total channel  
31 mileage between the first channel termination point in this State and  
32 the nearest channel termination point outside this State.

33 (f) Call Center Cap. – The gross receipts tax on interstate telecommunications  
34 service that originates outside this State, terminates in this State, and is provided to a  
35 call center that has a direct pay certificate issued by the Department under G.S. 105-  
36 164.27 may not exceed fifty thousand dollars (\$50,000) a calendar year. This cap  
37 applies separately to each legal entity.

38 (g) Credit. – A taxpayer who pays a tax legally imposed by another state on a  
39 telecommunications service taxable under this section is allowed a credit against the tax  
40 imposed in this section.

41 (h) Definitions. – The following definitions apply in this section:

42 (1) Call center. – Defined in G.S. 105-164.27.

43 (2) Interstate telecommunications service. – Telecommunications service  
44 that originates or terminates in this State, but does not both originate

1 and terminate in this State, and is charged to a service address in this  
2 State.

3 (3) Intrastate telecommunications service. – Telecommunications service  
4 that both originates and terminates in this State.

5 (4) Local telecommunications service. – Telecommunications service that  
6 provides access to a local telephone network and enables a user to  
7 communicate with substantially everyone who has a telephone or  
8 radiotelephone station that is part of the local telephone network.

9 (5) Mobile telecommunications service. – Defined in G.S. 105-164.3.

10 (6) Private telecommunications service. – Telecommunications service  
11 that entitles a subscriber of the service to exclusive or priority use of a  
12 communications channel or group of channels.

13 (7) Service address. – Defined in G.S. 105-164.3.

14 (8) Telecommunications service. – Defined in G.S. 105-164.3.

15 (9) Toll telecommunications service. – Any of the following:

16 a. A service for which there is a toll charge that varies in amount  
17 with the distance or elapsed transmission time of each  
18 individual communication.

19 b. A service that entitles the subscriber, upon payment of a  
20 periodic charge, determined as a flat amount or on the basis of  
21 total elapsed transmission time, to an unlimited number of  
22 communications to or from all or a substantial portion of those  
23 who have a telephone or radiotelephone station in an area  
24 outside the local telephone network."

25 **SECTION 8.** G.S. 105-164.16(c) reads as rewritten:

26 "(c) ~~Sales Tax on Utility Services. Electricity and Telecommunications.~~ – A return  
27 for taxes levied under G.S. 105-164.4(a)(4a) and G.S. 105-164.4(a)(4c) is due ~~quarterly~~  
28 ~~or monthly as specified in this subsection. A utility that is allowed to pay tax under G.S.~~  
29 ~~105-120 on a quarterly basis shall file a quarterly return. All other utilities shall file a~~  
30 ~~monthly return. A quarterly return is due by the last day of the month following the~~  
31 ~~quarter covered by the return. A monthly.~~ The monthly return is due by the last day of  
32 the month following the month in which the taxes accrue, except the return for taxes  
33 that accrue in May. A return for taxes that accrue in May is due by June 25.

34 A utility-retailer that is required to file a monthly return may file an estimated return  
35 for the first month, the second month, or both the first and second months in a quarter.  
36 A utility-retailer is not subject to interest on or penalties for an underpayment submitted  
37 with an estimated monthly return if the utility-retailer timely pays at least ninety-five  
38 percent (95%) of the amount due with a monthly return and includes the underpayment  
39 with the company's retailer's return for the third month in the same quarter."

40 **SECTION 9.** G.S. 105-164.20 reads as rewritten:

41 **"§ 105-164.20. Cash or accrual basis of reporting.**

42 Any retailer, except a utility-retailer who sells electricity or telecommunications  
43 service, may report sales on either the cash or accrual basis of accounting upon making  
44 application to the Secretary for permission to use the basis selected. Permission granted

1 by the Secretary to report on a selected basis continues in effect until revoked by the  
2 Secretary or the taxpayer receives permission from the Secretary to change the basis  
3 selected. ~~A utility-retailer who sells electricity or telecommunications service must~~  
4 ~~report its sales on an accrual basis. A sale by a utility of electricity or intrastate~~  
5 ~~telephone-telecommunications service is considered to accrue when the utility bills its~~  
6 ~~customer for the sale."~~

7 **SECTION 10.** G.S. 105-164.27A reads as rewritten:

8 "**§ 105-164.27A. Direct pay ~~certificate~~-permit.**

9 (a) ~~Requirements.~~ Direct Pay Permit for Tangible Personal Property. – A direct  
10 pay permit for tangible personal property authorizes its holder to purchase any tangible  
11 personal property without paying tax to the seller and authorizes the seller to not collect  
12 any tax on a sale to the permit holder. A person who purchases tangible personal  
13 property under a direct pay permit issued under this subsection is liable for use tax due  
14 on the purchase. The tax is payable when the property is placed in use. A direct pay  
15 permit issued under this subsection does not apply to taxes imposed under G.S. 105-  
16 164.4(a)(1f) or G.S. 105-164.4(a)(4a).

17 A person who purchases tangible personal property whose tax status cannot be  
18 determined at the time of the purchase because of one of the reasons listed below may  
19 apply to the Secretary for a direct pay ~~certificate~~-permit for tangible personal property:

- 20 (1) The place of business where the property will be used is not known at  
21 the time of the purchase and a different tax consequence applies  
22 depending on where the property is used.
- 23 (2) The manner in which the property will be used is not known at the  
24 time of the purchase and one or more of the potential uses is taxable  
25 but others are not taxable.

26 (b) ~~Procedure.~~—~~An application for a direct pay certificate~~ Secretary and contain  
27 ~~the information required by the Secretary. The Secretary may grant the application if the~~  
28 ~~Secretary finds that the applicant complies with the sales and use tax laws and that the~~  
29 ~~applicant's compliance burden will be greatly reduced by use of the certificate.~~

30 (c) ~~Effect.~~—~~A direct pay certificate authorizes its holder to purchase any tangible~~  
31 ~~personal property without paying tax to the seller and authorizes the seller to not collect~~  
32 ~~any tax on a sale to the certificate holder. A person who purchases tangible personal~~  
33 ~~property under a direct pay certificate is liable for use tax due on the purchase. The tax~~  
34 ~~is payable when the property is placed in use. A direct pay certificate does not apply to~~  
35 ~~taxes imposed under G.S. 105-164.4(a)(1f) or G.S. 105-164.4(a)(4a).~~

36 (b) Direct Pay Permit for Telecommunications Service. – A direct pay permit for  
37 telecommunications service authorizes its holder to purchase telecommunications  
38 service without paying tax to the seller and authorizes the seller to not collect any tax on  
39 a sale to the permit holder. A person who purchases telecommunications service under a  
40 direct pay permit must file a return and pay the tax due monthly to the Secretary. A  
41 direct pay permit issued under this subsection does not apply to any tax other than the  
42 tax on telecommunications service.

43 A call center that purchases interstate telecommunications service that originates  
44 outside this State and terminates in this State may apply to the Secretary for a direct pay

1 permit for telecommunications service. A call center is a business that is primarily  
2 engaged in providing support services to customers by telephone to support products or  
3 services of the business. A business is primarily engaged in providing support services  
4 by telephone if at least sixty percent (60%) of its calls are incoming.

5 (c) Application. – An application for a direct pay permit must be made on a form  
6 provided by the Secretary and contain the information required by the Secretary. The  
7 Secretary may grant the application if the Secretary finds that the applicant complies  
8 with the sales and use tax laws and that the applicant's compliance burden will be  
9 greatly reduced by use of the ~~certificate-permit~~.

10 (d) Revocation. – A direct pay ~~certificate-permit~~ is valid until the holder returns it  
11 to the Secretary or ~~it is revoked by the Secretary.~~ the Secretary revokes it. The Secretary  
12 may revoke a direct pay ~~certificate-permit~~ if the holder of the ~~certificate-permit~~ does not  
13 file a sales and use tax return on time, does not pay sales and use on time, or otherwise  
14 fails to comply with the sales and use tax laws."

15 **SECTION 11.** Part 8 of Article 5 of Chapter 105 of the General Statutes is  
16 amended by adding a new section to read:

17 **"§ 105-164.44F. Distribution of part of telecommunications taxes to cities.**

18 Within 75 days after the end of each calendar quarter, the Secretary must distribute  
19 to the cities twelve percent (12%) of the net proceeds of the taxes imposed by G.S. 105-  
20 164.4(a)(4c) on telecommunications service. The Secretary must distribute this amount  
21 among the cities on a per capita basis according to the most recent annual population  
22 estimates certified to the Secretary by the State Planning Officer. A city incorporated on  
23 or after January 1, 2000, may not receive a distribution under this section unless it meets  
24 both of the following requirements:

25 (1) It must be eligible to receive funds under G.S. 136-41.2.

26 (2) A majority of the mileage of its streets must be open to the public."

27 **SECTION 12.** G.S. 105-116(d) reads as rewritten:

28 "(d) Distribution. – ~~Part of the taxes imposed by this section on electric power~~  
29 ~~companies, natural gas companies, and regional natural gas districts is distributed to~~  
30 ~~cities under G.S. 105-116.1.~~ Within 75 days after the end of each calendar quarter, the  
31 Secretary must distribute to the cities part of the tax proceeds from the gross receipts of  
32 an electric power company derived within the city. The amount to be distributed to a  
33 city is three and nine hundredths percent (3.09%) of the gross receipts derived within  
34 the city."

35 **SECTION 13.** G.S. 105-116.1 is repealed.

36 **SECTION 14.** G.S. 105-120 is repealed.

37 **SECTION 15.** G.S. 105-467 is amended by adding a new subdivision to  
38 read:

39 "(6) The sales price of prepaid telephone calling arrangements taxed as  
40 tangible personal property under G.S. 105-164.4(a)(4d)."

41 **SECTION 16.** The first paragraph of Section 4 of Chapter 1096 of the 1967  
42 Session Laws, as amended, is amended as follows:

43 (1) By deleting the word "and" before subdivision (5).



1 (2) By changing the period at the end of subdivision (5) to a semicolon  
2 and adding the word "and".

3 (3) By adding a new subdivision to read:

4 "(6) The sales price of prepaid telephone calling arrangements taxed as  
5 tangible personal property under G.S. 105-164.4(a)(4d)."

6 **SECTION 17.(a)** Hold Harmless. – For distributions made in calendar  
7 quarters beginning on or after April 1, 2002, the combined amount distributed to a city  
8 under G.S. 105-116, 105-164.44F, and 105-187.44 is subject to the following  
9 conditions:

10 (1) The amount distributed to a city may not exceed the city's overall  
11 benchmark amount until each city receives an amount equal to its  
12 overall benchmark amount.

13 (2) The amount distributed to a city may not be less than the city's overall  
14 benchmark amount.

15 **SECTION 17.(b)** Calculation. – Each quarter, the Secretary of Revenue  
16 must determine a city's overall benchmark amount and the amount it would receive  
17 under G.S. 105-116, 105-164.44F, and 105-187.44, as modified by S.L. 1998-22,  
18 Section 14 and S.L. 2000-140, Section 85, if not for the redistribution required by this  
19 section. The Secretary must identify those cities whose distribution amounts under  
20 these three statutes are less than their overall benchmark amounts and must determine  
21 the total dollar amount of the shortfall. The Secretary must reduce the amount to be  
22 distributed to those cities whose distribution amount under those statutes exceeds their  
23 overall benchmark amount by the total dollar amount of the shortfall determined for that  
24 quarter in proportion to each city's excess. However, in no event may a city's  
25 distribution amount be reduced below its overall benchmark amount. The Secretary  
26 must redistribute these monies to the cities whose distribution amounts under the three  
27 statutes are less than their overall benchmark amounts in proportion to each city's  
28 shortfall. In any quarter that a city does not have a prior year's distribution for the  
29 corresponding quarter in the preceding fiscal year, that city is excluded from the  
30 redistribution required under this section for that quarter. In that case, the city will  
31 receive the amount it is entitled to receive under G.S. 105-116, 105-164.44F, and  
32 105-187.44.

33 **SECTION 17.(c)** Definition. – As used in this section, the term "overall  
34 benchmark amount" means the sum of the following two amounts:

35 (1) The amount distributed to the city under repealed G.S. 105-116.1 in  
36 the same calendar quarter of the last year in which the city received the  
37 distribution under that statute.

38 (2) The city's piped natural gas benchmark amount for that same quarter,  
39 as determined under S.L. 1998-22, Section 14, as amended by S.L.  
40 2000-140, Section 18.

41 **SECTION 17.(d)** Report. – The Department of Revenue must report to the  
42 Revenue Laws Study Committee by October 1, 2003, on the effect of the changes made  
43 by this act on the amounts distributed to cities, including the amounts received by them  
44 from the sales and use tax on prepaid calling arrangements. The Department must

1 include in its report any adjustments to city distributions recommended by the  
2 Department. The Department must consult with the North Carolina League of  
3 Municipalities in developing its recommendations.

4 **SECTION 18.** G.S. 153A-152 reads as rewritten:

5 "**§ 153A-152. Privilege license taxes.**

6 (a) Authority. – A county may levy privilege license taxes on trades,  
7 occupations, professions, businesses, and franchises to the extent authorized by Article  
8 2 of Chapter 105 of the General Statutes and any other acts of the General Assembly. A  
9 county may levy privilege license taxes to the extent formerly authorized by the  
10 following sections of Article 2 of Chapter 105 of the General Statutes before they were  
11 repealed:

12	G.S. 105-50	Pawnbrokers.
13	G.S. 105-53	Peddlers, itinerant merchants, and specialty market operators.
14	G.S. 105-55	Installing elevators and automatic sprinkler systems.
15	G.S. 105-58	Fortune tellers, palmists, etc.
16	G.S. 105-65	Music machines.
17	G.S. 105-66.1	Electronic video games.
18	G.S. 105-80	Firearms dealers and dealers in other weapons.
19	G.S. 105-89	Automobiles, wholesale supply dealers and service stations.
20	G.S. 105-89.1	Motorcycle dealers.
21	G.S. 105-90	Emigrant and employment agents.
22	G.S. 105-102.5	General business license.

23 (b) Telecommunications Restriction. – A county may not impose a license,  
24 franchise, or privilege tax on a company taxed under G.S. 105-164.4(a)(4c)."

25 **SECTION 19.** G.S. 160A-211 is amended by adding a new subsection to  
26 read:

27 "(d) Telecommunications Restriction. – A city may not impose a license,  
28 franchise, or privilege tax on a company taxed under G.S. 105-164.4(a)(4c)."

29 **SECTION 20.** Pursuant to G.S. 62-31 and G.S. 62-32, the Utilities  
30 Commission must lower the rate set for local telecommunications service to reflect the  
31 repeal of G.S. 105-120 and the resulting liability of local telecommunications  
32 companies for the tax imposed under G.S. 105-122.

33 **SECTION 21.** The Revenue Laws Study Committee shall recommend any  
34 changes necessary to this act to conform with the federal Mobile Telecommunications  
35 Sourcing Act to the 2002 Regular Session of the 2001 General Assembly.

36 **SECTION 22.** This act becomes effective January 1, 2002, and applies to  
37 taxable services reflected on bills dated on or after January 1, 2002. Section 17 expires  
38 on July 1, 2004.