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NCTA GOVERNMENT AFFAIRS UPDATE—AUGUST 5, 2009

I) State Budget (S 202)

- a) Spending FY 2009 \$21.36B budgeted/\$20.39B actually spent
- | | | | | |
|---------|--------|----------|----------------------------|---------------------|
| FY 2010 | Perdue | \$20.98B | Senate | \$20.05B |
| | House | \$18.6B | <u>Final budget</u> | <u>\$19B</u> |
- b) Taxes 1% State sales tax + sales tax on digital + 10 cents/pack cigs + 5 cents/6 pack of beer + 5% on liquor + 4 cents/bottle of wine +income tax surcharge= **\$990M new**

II) Tax Structure That Encourages Job Creation

- * Founders stock—S 751/H 763—Perdue recommended/not enacted
- * Video game tax credit-S 525—not enacted
- * Incentive law for Apple—S 575--**Enacted**

III) Education Strategy That Supports The Knowledge Economy

- * School Connectivity—carries forward unexpended \$\$
- * 1:1 Computing—carries forward unexpended \$\$
- * JOBS Comm'n (Dalton bill--business, schools & STEM)—S 1069--**Enacted**
- * HS graduation project—H223—SBOE can't require b/f July 2011--**Enacted**

IV) Defense And Security Cluster

- * DSTA—\$1M NR (S 202)

V) State Government Information Technology

- S 202
- * Leg. IT Oversight review IT law by April 2010 (sec. 6.12)
 - * ITS-MCNC services-network integration (sec. 6.13)
 - * State portal—OSBM submit plan to GA by Dec. 2009 (sec. 6.14)
 - * Use of IT GSA schedules—start + study (sec. 6.15)
 - * Use more e-forms & digital signatures (sec. 6.16)

S 1072 ITS collaboration with agencies—Passed Senate. In House S&T

VI) Other

- * SBIR/STTR matching grants--\$700K NR
- * E-waste—S887—passed Senate. In House Environment
- * No email or text while driving—H9—**Enacted**

**General Assembly's website—www.ncga.state.nc.us

**Questions? Ed (eturlington@brookspierce.com) or Charles (cmarshall@brookspierce.com)

August 7, 2009

Friends:

The General Assembly has now passed the State budget bill (S 202) and has sent it to the Governor for her signature. Press reports quote her as saying she will sign it. Members wanting to review the budget can go to the General Assembly's website (www.ncqa.state.nc.us) and click on these phrases—

- *New – Conference Committee Report for Senate Bill 202, Appropriations Act of 2009, submitted August 3, 2009*
- *Proposed Conference Committee Substitute Text
Table of Contents*
- *Committee Money Report*

Note that the "Conference Committee substitute text" is the narrative part of the budget and the "Committee Money Report" provides agency by agency spending detail. The Money Report can be confusing, however, since many of the numbers adjust the continuation budget (the year to year spending) with a higher or lower spending number. For example, if an item gets \$1M in the continuation budget, the money report may say - \$200,000, which means that the item is funded at \$800,000.

The two-year budget spends about \$19B in FY 2010, which started July 1, and about \$19.65B in FY 2011. Note that the budget for FY 2009 was \$21.36B (about \$20.39B was actually spent as Governor Easley and Governor Perdue slowed spending due to declining economic conditions).

Legislators raised about \$990M in new taxes in the budget bill. About \$800M of this amount is for an 1% increase in the State sales rate for two years. There are increases in the taxes on cigarettes (10 cents/pack), beer (5 cents/6 pack), liquor (5%/bottle), wine (4 cents/bottle) and there is an income tax "surcharge" for two years. Married couples with incomes between \$100,000 and \$250,000 would pay a 2% surcharge and those making more than \$250,000 would pay 3%. The surcharge kicks in for individual taxpayers at \$60,000. There is also a two-year 3% surcharge on corporate profits.

The budget also applies the State sales tax anew to certain items purchased digitally (downloadable books and music for example) that, when bought in stores, are currently subject to the sales tax. Although NCTA opposed all new taxation of digital items, key Legislators signaled as early as last December that they were going to apply the sales tax to digital consumer purchases and to so-called "click throughs," also known as the "Amazon tax" since it authorizes the State to collect sales tax on such purchases if companies such as Amazon use in-state representatives to promote their sales.

Despite the Legislature's decision to tax digital goods, NCTA was successful in inserting language that exempts the purchase of much "business to business" software from sales taxation, an exemption that will help many technology companies. NCTA also worked successfully in favor of a provision that exempts certain software used at "datacenters" from sales taxation. The tax provisions related to digital items can be viewed in the "Conference Committee Substitute Text" beginning at page 219.

****more****

Although key Senators wanted to enact a broader overhaul of the State's tax code to lower the sales tax rate but apply it to dozens of new services, this "reform" was not enacted. A number of items were not changed, e.g., applying the franchise tax to LLCs and implementing "combined reporting" for corporations doing business in number of states, but remain attractive to some members. It is important to note that the budget bill authorizes the Finance committees in the two houses to continue work on such issues and press reports indicate that many of these ideas still have traction with key legislators.

The budget bill also has a number of provisions that may interest NCTA vendor members. These provisions begin at page 12 (section 6.7) of the bill and among other things, direct the Legislative IT Oversight Committee to examine and report on State IT procurement laws, direct the Office of State Budget and Management to submit a plan on how to improve the State portal and authorize the use of GSA schedules in IT purchasing in certain circumstances.

On the spending side, a number of items supported by NCTA were funded. Legislators authorized the use of unspent money appropriated in past years for both the School Connectivity initiative and the 1:1 computing effort--this was important since they often let such monies "revert" to be used for other purposes. They also appropriated \$1M for the Defense and Security Technology Accelerator (DSTA) in Fayetteville.

Please contact us if you have questions.

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