

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 1388

Short Title: Reduce Food Tax.

(Public)

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Sponsors: Senators Hoyle; Plexico, Winner, and Smith.

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Referred to: Finance.

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May 30, 1996

A BILL TO BE ENTITLED

1 AN ACT TO REDUCE THE STATE SALES TAX ON FOOD FROM FOUR  
2 PERCENT TO THREE PERCENT.  
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4 The General Assembly of North Carolina enacts:

5 Section 1. G.S. 105-164.4(a) is amended by adding a new subdivision to read:

6 "(5) The rate of three percent (3%) applies to the sales price of food that is  
7 not otherwise exempt pursuant to G.S. 105-164.13 but would be exempt  
8 pursuant to G.S. 105-164.13 if it were purchased with coupons issued  
9 under the Food Stamp Program, 7 U.S.C. § 51."

10 Sec. 2. G.S. 105-465 reads as rewritten:

11 "**§ 105-465. County election as to adoption of local sales and use tax.**

12 The board of elections of any county, upon the written request of the board of county  
13 commissioners thereof, or upon receipt of a petition signed by qualified voters of the  
14 county equal in number to at least fifteen percent (15%) of the total number of votes cast  
15 in the county, at the last preceding election for the office of Governor, shall call a special  
16 election for the purpose of submitting to the voters of the county the question of whether  
17 a one percent (1%) sales and use tax as hereinafter provided will be levied.

18 The special election shall be held under the same rules and regulations applicable to  
19 the election of members of the General Assembly. No new registration of voters shall be  
20 required. All qualified voters in the county who are properly registered not later than 21

1 days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at  
2 said election. The county board of elections shall give at least 20 days' public notice prior  
3 to the closing of the registration books for the special election.

4 The county board of election shall prepare ballots for the special election ~~which shall~~  
5 ~~contain the words, election.~~ The question presented on the ballot shall be 'FOR the one  
6 percent (1%) local sales and use tax only on those items presently covered by the four percent  
7 (4%) sales and use tax,' and the words, on items subject to State sales and use tax at the  
8 general State rate and on food' or 'AGAINST the one percent (1%) local sales and use tax  
9 only on those items presently covered by the four percent (4%) sales and use tax,' with  
10 appropriate squares so that each voter may designate his vote by his cross (X) mark. on items  
11 subject to State sales and use tax at the general State rate and on food'.

12 The county board of elections shall fix the date of the special election; provided,  
13 however, that the special election shall not be held on the date of any biennial election for  
14 county officers, nor within 60 days thereof, nor within one year from the date of the last  
15 preceding special election under this section."

16 Sec. 3. G.S. 105-467 reads as rewritten:

17 **"§ 105-467. Scope of sales tax.**

18 The sales tax ~~which that~~ may be imposed under this Article is limited to a tax at the  
19 rate of one percent (1%) ~~of~~ of the following:

- 20 (1) The sales price of ~~those articles of~~ tangible personal property ~~now~~ subject  
21 to the general rate of sales tax imposed by the State under G.S. 105-  
22 164.4(a)(1) and ~~(4b); (a)(4b).~~
- 23 (2) The gross receipts derived from the lease or rental of tangible personal  
24 property when the lease or rental of the property is subject to the general  
25 rate of sales tax imposed by the State under G.S. ~~105-164.4(a)(2); 105-~~  
26 164.4(a)(2).
- 27 (3) The gross receipts derived from the rental of any room or ~~lodging~~  
28 ~~furnished by any hotel, motel, inn, tourist camp or other similar~~  
29 accommodations ~~now~~ subject to the general rate of sales tax imposed by  
30 the State under G.S. ~~105-164.4(a)(3); and 105-164.4(a)(3).~~
- 31 (4) The gross receipts derived from services rendered by laundries, dry  
32 cleaners, and other businesses ~~now~~ subject to the general rate of sales  
33 tax imposed by the State under G.S. 105-164.4(a)(4).
- 34 (5) The sales price of food subject to three percent (3%) sales tax imposed  
35 by the State under G.S. 105-164.4(a)(5).

36 The sales tax authorized by this Article does not apply to sales that are taxable by the  
37 State under G.S. 105-164.4 but are not specifically included in subdivisions (1) through  
38 ~~(4)~~ (5) of this section.

39 The State exemptions and exclusions contained in G.S. 105-164.13 and the State  
40 refund provisions contained in G.S. 105-164.14 ~~shall apply with equal force and in like~~  
41 ~~manner~~ to the local sales and use tax authorized to be levied and imposed under this  
42 Article. A taxing county ~~shall have no authority, with respect to the local sales and use tax~~  
43 ~~imposed under this Article to change, alter, add to or delete any refund provisions contained in~~

1 G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-164.13 or which are  
2 elsewhere provided for. may not allow an exemption, exclusion, or refund that is not  
3 allowed under the State sales and use tax.

4 The local sales tax authorized to be imposed and levied under ~~the provisions of this~~  
5 Article shall apply to such retail sales, leases, rentals, ~~the rendering of services,~~  
6 ~~furnishing of rooms, lodgings or accommodations and other~~ applies to taxable  
7 transactions which are made, furnished or rendered by retailers whose place of business is  
8 located within the taxing county. ~~The tax imposed shall apply to the furnishing of rooms,~~  
9 ~~lodging or other accommodations within the county which are rented to transients.~~ For  
10 the purpose of this Article, the situs of a transaction is the location of the retailer's place  
11 of business."

12 Sec. 4. G.S. 105-468 reads as rewritten:

13 "**§ 105-468. Scope of use tax.**

14 The use tax ~~which may be imposed under~~ authorized by this Article shall be ~~is~~ a tax at  
15 the rate of one percent (1%) of the cost price of each item or article of tangible personal  
16 property ~~when it that is not sold in the taxing county but is used, consumed~~ consumed, or  
17 stored for use or consumption in the taxing county, ~~except that no tax shall be imposed upon~~  
18 ~~tangible personal property when the property would be taxed by the State at a rate other than the~~  
19 ~~general rate of tax set in G.S. 105-164.4 if it were taxable under G.S. 105-164.6.~~ county. The  
20 tax applies to the same items that are subject to tax under G.S. 105-467.

21 Every retailer who is engaged in business in this State and in the taxing county and is  
22 required to collect the use tax levied by G.S. 105-164.6 shall ~~also~~ collect the one percent  
23 (1%) use tax when ~~such~~ the property is to be used, ~~consumed~~ consumed, or stored in the  
24 taxing county, ~~one percent (1%) use tax to be collected concurrently with the State's use tax; but~~  
25 ~~no retailer not required to collect the use tax levied by G.S. 105-164.6 shall be required to collect~~  
26 ~~the one percent (1%) use tax.~~ county. The use tax contemplated by this section shall be  
27 levied against the purchaser, and the purchaser's liability for the use tax shall be  
28 extinguished only upon payment of the use tax to the retailer, where the retailer is  
29 required to collect the tax, or to the ~~Secretary of Revenue, or to the taxing county,~~ as  
30 ~~appropriate,~~ Secretary, where the retailer is not required to collect the tax.

31 Where a local sales or use tax has been paid with respect to tangible personal property  
32 by the purchaser, either in another taxing county within the State, or in a taxing  
33 jurisdiction outside the State where the purpose of the tax is similar in purpose and intent  
34 to the tax which may be imposed pursuant to this Article, the tax paid may be credited  
35 against the tax imposed under this section by a taxing county upon the same property. If  
36 the amount of sales or use tax so paid is less than the amount of the use tax due the taxing  
37 county under this section, the purchaser shall pay to the ~~Secretary of Revenue or to the~~  
38 ~~taxing county, as appropriate,~~ an amount equal to the difference between the amount so  
39 paid in the other taxing county or jurisdiction and the amount due in the taxing county.  
40 The ~~Secretary of Revenue or the taxing county, as appropriate,~~ may require such proof of  
41 payment in another taxing county or jurisdiction as is deemed to be necessary. The use  
42 tax levied under this Article is not subject to credit for payment of any State sales or use  
43 tax not imposed for the benefit and use of counties and municipalities. No credit shall be

1 given under this section for sales or use taxes paid in a taxing jurisdiction outside this  
2 State if that taxing jurisdiction does not grant similar credit for sales taxes paid under this  
3 Article."

4       Sec. 5. The first paragraph of Section 4 of Chapter 1096 of the 1967 Session  
5 Laws, as amended, is amended as follows:

6       (1) By deleting the word "and" before subdivision (4).

7       (2) By changing the period at the end of subdivision (4) to a semicolon and  
8 adding the word "and".

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

10       "(5) The sales price of food subject to three percent (3%) sales tax imposed  
11       by the State under G.S. 105-164.4(a)(5)."

12       Sec. 6. The first sentence of Section 5 of Chapter 1096 of the 1967 Session  
13 Laws is amended by deleting the first sentence of that section and substituting the  
14 following sentences to read:

15       "The use tax that Mecklenburg County may impose under this division is a tax at the  
16 rate of one percent (1%) of the cost price of each item or article of tangible personal  
17 property that is not sold but is used, consumed, or stored for use or consumption in  
18 Mecklenburg County. The tax applies to the same items that are subject to tax under  
19 Section 4 of this act."

20       Sec. 7. Approval under Article 39, 40, or 42 of Chapter 105 of the General  
21 Statutes, or under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the  
22 1967 Session Laws, as amended, of local sales and use taxes on items subject to State  
23 sales and use tax at the general State rate constitutes approval of local sales and use taxes  
24 on food.

25       Sec. 8. This act becomes effective January 1, 1997, and applies to sales made  
26 on or after that date.