

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 2076

Short Title: Phase Out 6% Food Tax.

(Public)

Sponsors: Representatives Fitch; Adams, Balmer, Bowman, Cromer, Cummings, Cunningham, Easterling, Flaherty, Grady, Green, Kuczmariski, Lemmond, Luebke, Michaux, Nichols, J. Preston, G. Thompson, Wainwright, Warner, and Wright.

Referred to: Finance.

June 7, 1994

1 A BILL TO BE ENTITLED  
2 AN ACT TO PHASE OUT OVER SIX YEARS THE SIX PERCENT STATE AND  
3 LOCAL SALES TAX ON FOOD.

4 The General Assembly of North Carolina enacts:

5 Section 1. Effective July 1, 1994, through June 30, 1997, G.S. 105-164.4(a)  
6 is amended by adding a new subdivision to read:

7 "(1f) The following rates apply to the sales price of food and other items  
8 that would be exempt from the tax imposed by this Article if they were  
9 purchased with coupons issued under the Food Stamp Program, 7  
10 U.S.C. § 51:

<u>Effective Dates</u>	<u>Rate</u>
<u>July 1, 1994, through June 30, 1995 – three percent (3%)</u>	
<u>July 1, 1995, through June 30, 1996 – two percent (2%)</u>	
<u>July 1, 1996, through June 30, 1997 – one percent (1%)."</u>	

15 Sec. 2. Effective July 1, 1997, through June 30, 1999, Article 5 of Chapter  
16 105 of the General Statutes is amended by adding a new section to read:

17 "**§ 105-164.13B. Food exempt from tax.**

18 The taxes imposed by this Article do not apply to food and other items that are not  
19 otherwise exempt pursuant to G.S. 105-164.13 but would be exempt pursuant to G.S.  
20 105-164.13 if purchased with coupons issued under the Food Stamp Program, 7 U.S.C.  
21 § 51."

22 Sec. 3. Effective July 1, 1999, G.S. 105-164.13(38) reads as rewritten:

1           "(38) Food and other items that may be lawfully purchased with coupons  
2           issued under the Food Stamp Program, 7 U.S.C. § 51, ~~and~~  
3           ~~supplemental foods lawfully purchased with a food instrument issued~~  
4           ~~under the Special Supplemental Food Program, 42 U.S.C. § 1786, and~~  
5           ~~supplemental foods purchased for direct distribution by the Special~~  
6           ~~Supplemental Food Program. 51, regardless of whether coupons are~~  
7           used to make the purchase."

8           Sec. 4. Effective July 1, 1994, through June 30, 1999, G.S. 105-465 reads as  
9   rewritten:

10 **"§ 105-465. County election as to adoption of local sales and use tax.**

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

17       The special election shall be held under the same rules and regulations applicable to  
18   the election of members of the General Assembly. No new registration of voters shall be  
19   required. All qualified voters in the county who are properly registered not later than 21  
20   days (excluding Saturdays and Sundays) prior to the election shall be entitled to vote at  
21   said election. The county board of elections shall give at least 20 days' public notice  
22   prior to the closing of the registration books for the special election.

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

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

35       Sec. 5. Effective July 1, 1994, G.S. 105-467 reads as rewritten:

36 **"§ 105-467. Scope of sales tax.**

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

- 39       (1) The sales price of ~~those articles of~~ tangible personal property ~~now~~  
40       subject to the general rate of sales tax imposed by the State under G.S.  
41       105-164.4(a)(1) and ~~(4b); (a)(4b).~~
- 42       (2) The gross receipts derived from the lease or rental of tangible personal  
43       property when the lease or rental of the property is subject to the

1 general rate of sales tax imposed by the State under G.S. ~~105-~~  
2 ~~164.4(a)(2);~~ 105-164.4(a)(2).

3 (3) The gross receipts derived from the rental of any room or lodging  
4 ~~furnished by any hotel, motel, inn, tourist camp or other similar~~  
5 ~~accommodations now~~ subject to the general rate of sales tax imposed  
6 by the State under G.S. ~~105-164.4(a)(3); and~~ 105-164.4(a)(3).

7 (4) The gross receipts derived from services rendered by laundries, dry  
8 cleaners, and other businesses ~~now~~ subject to the general rate of sales  
9 tax imposed by the State under G.S. 105-164.4(a)(4).

10 (5) The sales price of food that is not otherwise exempt from tax pursuant  
11 to G.S. 105-164.13 but would be exempt from the State sales and use  
12 tax pursuant to G.S. 105-164.13 if it were purchased with coupons  
13 issued under the Food Stamp Program, 7 U.S.C. § 51.

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

17 The State exemptions and exclusions contained in G.S. 105-164.13 and the State  
18 refund provisions contained in G.S. 105-164.14 ~~shall apply with equal force and in like~~  
19 ~~manner to the local sales and use tax authorized to be levied and imposed under this~~  
20 ~~Article. A taxing county shall have no authority, with respect to the local sales and use tax~~  
21 ~~imposed under this Article to change, alter, add to or delete any refund provisions contained in~~  
22 ~~G.S. 105-164.14, or any exemptions or exclusions contained in G.S. 105-164.13 or which are~~  
23 ~~elsewhere provided for. may not allow an exemption, exclusion, or refund that is not~~  
24 ~~allowed under the State sales and use tax.~~

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

33 Sec. 6. Effective July 1, 1994, G.S. 105-468 reads as rewritten:

34 "**§ 105-468. Scope of use tax.**

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

42 Every retailer who is engaged in business in this State and in the taxing county and  
43 is required to collect the use tax levied by G.S. 105-164.6 shall also collect the one  
44 percent (1%) use tax when such ~~the~~ property is to be used, consumed ~~consumed,~~ or

1 stored in the taxing county, ~~one percent (1%) use tax to be collected concurrently with the~~  
2 ~~State's use tax; but no retailer not required to collect the use tax levied by G.S. 105-164.6 shall~~  
3 ~~be required to collect the one percent (1%) use tax. county.~~ The use tax contemplated by  
4 this section shall be levied against the purchaser, and the purchaser's liability for the use  
5 tax shall be extinguished only upon payment of the use tax to the retailer, where the  
6 retailer is required to collect the tax, or to the ~~Secretary of Revenue, or to the taxing county,~~  
7 ~~as appropriate, Secretary,~~ where the retailer is not required to collect the tax.

8 Where a local sales or use tax has been paid with respect to tangible personal  
9 property by the purchaser, either in another taxing county within the State, or in a taxing  
10 jurisdiction outside the State where the purpose of the tax is similar in purpose and  
11 intent to the tax which may be imposed pursuant to this Article, the tax paid may be  
12 credited against the tax imposed under this section by a taxing county upon the same  
13 property. If the amount of sales or use tax so paid is less than the amount of the use tax  
14 due the taxing county under this section, the purchaser shall pay to the Secretary of  
15 ~~Revenue or to the taxing county, as appropriate,~~ an amount equal to the difference between  
16 the amount so paid in the other taxing county or jurisdiction and the amount due in the  
17 taxing county. The ~~Secretary of Revenue or the taxing county, as appropriate,~~ may require  
18 such proof of payment in another taxing county or jurisdiction as is deemed to be  
19 necessary. The use tax levied under this Article is not subject to credit for payment of  
20 any State sales or use tax not imposed for the benefit and use of counties and  
21 municipalities. No credit shall be given under this section for sales or use taxes paid in  
22 a taxing jurisdiction outside this State if that taxing jurisdiction does not grant similar  
23 credit for sales taxes paid under this Article."

24 Sec. 7. Effective July 1, 1994, through June 30, 1999, the first paragraph of  
25 Section 4 of Chapter 1096 of the 1967 Session Laws, as amended, is amended as  
26 follows:

- 27 (1) By deleting the word "and" before subdivision (4).
- 28 (2) By changing the period at the end of subdivision (4) to a semicolon  
29 and adding the word "and".
- 30 (3) By adding a new subdivision to read:  
31 "(5) The sales price of food and other items that are not otherwise exempt  
32 from tax pursuant to G.S. 105-164.13 but would be exempt from the  
33 State sales and use tax pursuant to G.S. 105-164.13 if purchased with  
34 coupons issued under the Food Stamp Program, 7 U.S.C. § 51."

35 Sec. 8. Effective July 1, 1994, the first sentence of Section 5 of Chapter 1096  
36 of the 1967 Session Laws is amended by deleting the first sentence of that section and  
37 substituting the following sentences to read:

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

43 Sec. 9. Effective July 1, 1998, through June 30, 1999, G.S. 105-483 reads as  
44 rewritten:

1 **"§ 105-483. Levy and collection of additional taxes.**

2 Any county subject to this Article may levy one-half percent (1/2%) local sales and  
3 use taxes in addition to any other State and local sales and use taxes levied pursuant to  
4 law. Except as provided in this Article, the adoption, levy, collection, distribution,  
5 administration, and repeal of these additional taxes shall be in accordance with Article  
6 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this  
7 Article, references to 'this Article' mean Article 40 of this Chapter. The exemption for  
8 building materials in G.S. 105-468.1 does not apply to taxes levied under this Article.  
9 Notwithstanding the provisions of G.S. 105-467(5), a tax levied under this Article does  
10 not apply to food and other items that are exempt from State sales and use taxes  
11 pursuant to G.S. 105-164.13B."

12 Sec. 10. Effective July 1, 1998, through June 30, 1999, G.S. 105-498 reads as  
13 rewritten:

14 **"§ 105-498. Levy and collection of additional taxes.**

15 Any county subject to this Article may levy one-half percent (1/2%) local sales and  
16 use taxes in addition to any other State and local sales and use taxes levied pursuant to  
17 law. Except as provided in this Article, the adoption, levy, collection, distribution,  
18 administration, and repeal of these additional taxes shall be in accordance with Article  
19 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this  
20 Article, references to 'this Article' mean Article 42 of this Chapter. The exemption for  
21 building materials in G.S. 105-468.1 does not apply to taxes levied under this Article.  
22 Notwithstanding the provisions of G.S. 105-467(5), a tax levied under this Article does  
23 not apply to food and other items that are exempt from State sales and use taxes  
24 pursuant to G.S. 105-164.13B."

25 Sec. 11. Approval under Article 39 of Chapter 105 of the General Statutes or  
26 under the Mecklenburg County Sales and Use Tax Act, Chapter 1096 of the 1967  
27 Session Laws, as amended, of local sales and use taxes on items subject to State sales  
28 and use tax at the general State rate constitutes approval of local sales and use taxes on  
29 food for the period July 1, 1994, through June 30, 1999.

30 Sec. 12. Approval under Article 40 or 42 of Chapter 105 of the General  
31 Statutes of local sales and use taxes on items subject to State sales and use tax at the  
32 general State rate constitutes approval of local sales and use taxes on food for the period  
33 July 1, 1994, through June 30, 1998.

34 Sec. 13. Except as otherwise provided in this act, this act becomes effective  
35 July 1, 1994, and applies to sales made on or after that date. Section 1 of this act is  
36 repealed effective July 1, 1997. G.S. 105-467(5) as enacted by this act and Sections 2,  
37 4, 7, 9, and 10 of this act are repealed effective July 1, 1999.

38 Sec. 14. This act does not affect the rights or liabilities of the State, a  
39 taxpayer, or another person arising under a statute amended or repealed by this act  
40 before its amendment or repeal; nor does it affect the right to any refund or credit of a  
41 tax that would otherwise have been available under the amended or repealed statute  
42 before its amendment or repeal.