

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

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SENATE BILL 440

Short Title: No Food Tax/Funds for Local Govts.

(Public)

Sponsors: Senators Ballantine; Allran, Carpenter, Carrington, Cochrane, East, Forrester, Foxx, Garwood, Hartsell, Horton, Moore, Rucho, and Shaw of Guilford.

Referred to: Finance.

March 22, 1999

A BILL TO BE ENTITLED

1 AN ACT TO REPEAL THE LOCAL SALES TAX ON FOOD AND TO DISTRIBUTE
2 ONE CENT OF THE STATE SALES TAX TO LOCAL GOVERNMENTS EACH
3 YEAR.
4

5 The General Assembly of North Carolina enacts:

6 Section 1.(a) G.S. 105-164.13(38) reads as rewritten:

7 "(38) Any of the following:

- 8 a. Food and other items that may be lawfully purchased under the
9 Food Stamp Program, 7 U.S.C. § 51, ~~and supplemental whether or~~
10 not actually purchased under that Program.
11 b. Supplemental foods lawfully purchased with a food instrument
12 issued under the Special Supplemental Food Program, 42 U.S.C.
13 § 1786, ~~and supplemental-1786.~~
14 c. Supplemental foods purchased for direct distribution by the
15 Special Supplemental Food Program."

16 Section 1.(b) G.S. 105-164.13B is repealed.

17 Section 2. Article 5 of Chapter 105 of the General Statutes is amended by
18 adding a new section to read:

19 "**§ 105-164.44E. Tax sharing with local governments.**"

1 The Secretary shall distribute to local governments each year as provided in this
2 section approximately one-fourth of the State's tax levied under this Article at the general
3 rate of tax. Each quarter, the Secretary shall remit to each local government entitled to a
4 distribution of local tax proceeds under Articles 39, 40, and 42 of this Chapter a
5 distribution of State funds in an amount equal to fifty percent (50%) of the amount of
6 local taxes to be distributed to the local government under those Articles for that quarter.
7 The Secretary shall draw the State funds to be distributed from collections under this
8 Article."

9 Section 3. G.S. 105-472(a) reads as rewritten:

10 "(a) County Allocation. – The Secretary shall, on a quarterly basis, allocate to each
11 taxing county for which the Secretary collects the tax the net proceeds of the tax collected
12 in that county under this Article. For the purpose of this section, 'net proceeds' means the
13 gross proceeds of the tax collected in each county under this Article less taxes refunded,
14 the cost to the State of collecting and administering the tax in the county as determined
15 by the Secretary, the cost to the State of administering the distribution under G.S. 105-
16 164.44E, and other deductions that may be charged to the county. If the Secretary
17 collects local sales or use taxes in a month and the taxes cannot be identified as being
18 attributable to a particular taxing county, the Secretary shall allocate the taxes among the
19 taxing counties in proportion to the amount of taxes collected in each county under this
20 Article during that month and shall include them in the quarterly distribution."

21 Section 4. G.S. 105-164.44C is repealed.

22 Section 5. G.S. 105-465 reads as rewritten:

23 **"§ 105-465. County election as to adoption of local sales and use tax.**

24 The board of elections of any county, upon the written request of the board of county
25 commissioners, or upon receipt of a petition signed by qualified voters of the county
26 equal in number to at least fifteen percent (15%) of the total number of votes cast in the
27 county, at the last preceding election for the office of Governor, shall call a special
28 election for the purpose of submitting to the voters of the county the question of whether
29 a one percent (1%) sales and use tax will be levied.

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

36 The county board of elections shall prepare ballots for the special election. The
37 question presented on the ballot shall be 'FOR one percent (1%) local sales and use tax on
38 items subject to State sales and use tax at the general State ~~rate and on food~~"rate.'" or
39 'AGAINST one percent (1%) local sales and use tax on items subject to State sales and
40 use tax at the general State ~~rate and on food~~'-rate'.

41 The county board of elections shall fix the date of the special election, except that the
42 special election shall not be held on the date or within 60 days of any biennial election for

1 county officers, nor within one year from the date of the last preceding special election
2 under this section."

3 Section 6. G.S. 105-467 reads as rewritten:

4 "**§ 105-467. Scope of sales tax.**

5 (a) Scope – The sales tax that may be imposed under this Article is limited to a tax
6 at the rate of one percent (1%) of the ~~following items listed in this subsection.~~ The sales
7 tax authorized by this Article does not apply to sales that are taxable by the State under
8 G.S. 105-164.4 but are not specifically included in this subsection.

9 (1) The sales price of tangible personal property subject to the general rate
10 of sales tax imposed by the State under G.S. 105-164.4(a)(1) and
11 (a)(4b).

12 (2) The gross receipts derived from the lease or rental of tangible personal
13 property when the lease or rental of the property is subject to the general
14 rate of sales tax imposed by the State under G.S. 105-164.4(a)(2).

15 (3) The gross receipts derived from the rental of any room or other
16 accommodations subject to the general rate of sales tax imposed by the
17 State under G.S. 105-164.4(a)(3).

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

21 (5) ~~The sales price of food that is not otherwise exempt from tax pursuant to~~
22 ~~G.S. 105-164.13 but would be exempt from the State sales and use tax~~
23 ~~pursuant to G.S. 105-164.13 if it were purchased under the Food Stamp~~
24 ~~Program, 7 U.S.C. § 51.~~

25 ~~The sales tax authorized by this Article does not apply to sales that are taxable by the~~
26 ~~State under G.S. 105-164.4 but are not specifically included in this section.~~

27 (b) Exemptions, Exclusions, and Refunds. – The State exemptions and exclusions
28 contained in G.S. 105-164.13 and the State refund provisions contained in G.S. 105-
29 164.14 apply to the local sales and use tax authorized to be levied and imposed under this
30 Article. A taxing county may not allow an exemption, exclusion, or refund that is not
31 allowed under the State sales and use tax.

32 (c) Situs. – The local sales tax authorized to be imposed and levied under this
33 Article applies to taxable transactions by retailers whose place of business is located
34 within the taxing county. For the purpose of this Article, the situs of a transaction is the
35 location of the retailer's place of business."

36 Section 7. Section 4(5) of Chapter 1096 of the 1967 Session Laws is repealed.

37 Section 8. Section 4 of this act becomes effective July 1, 1999. Sections 1 and
38 5 through 7 of this act become effective October 1, 1999, and apply to sales made on or
39 after that date. Sections 2 and 3 of this act become effective January 1, 2000, and apply
40 to distributions made on or after that date. The remainder of this act is effective when it
41 becomes law.