

# NORTH CAROLINA GENERAL ASSEMBLY

## LEGISLATIVE FISCAL NOTE

**BILL NUMBER:** H.B. 1448 (2<sup>nd</sup> Edition) REVISED

**SHORT TITLE:** Make Meals Tax Penalties Uniform

**SPONSOR(S):** Rep. Buchanan

### FISCAL IMPACT

Yes (X)      No ( )      No Estimate Available (X)

FY 2001-02    FY 2002-03    FY 2003-04    FY 2004-05    FY 2005-06

#### REVENUES

General Fund

\* No General Fund Impact \*

Selected Local Gov.

\* See Assumptions and Methodology \*

#### PRINCIPAL DEPARTMENT(S) &

**PROGRAM(S) AFFECTED:** Counties and Cities with Prepared Meals Tax authority including Cumberland, Dare, Mecklenburg, Wake and Hillsborough.

**EFFECTIVE DATE:** October 1, 2001.

**BILL SUMMARY:** Currently counties and cities that collect a meals tax levy penalties based on those outlined in a variety of session laws. The legislation repeals all existing meals tax penalty provisions and applies the existing state sales and use tax penalty charges to meals taxes. The governing board of the taxing authority is also given the authority to waive those penalties.

**ASSUMPTIONS AND METHODOLOGY:** Four counties and one town are currently collecting a meals tax. Those localities are Cumberland County, Dare County, Mecklenburg County, Wake County, and the city of Hillsborough (Charlotte is also authorized to levy a meals tax but only if Mecklenburg does not. Because Mecklenburg levies such a tax Charlotte is not able to charge a meals tax). The tax is 1% on prepared meals. While the language governing each jurisdiction's definitions and collection process are the same, the penalty provisions are not uniform. The bill makes the penalty provision uniform by applying the state sales and use tax penalties to meals taxes.

G.S. 105-236 sets out the penalties that apply to State taxes, including sales taxes. It provides that the penalty for failure to file is 5% of the tax due per month, up to a maximum of 25%. The penalty for failure to pay tax is 10% of the tax due. In the case of negligence, there is a 10% penalty, which increases to 25% if the amount of the deficiency is more than 25% of liability. G.S. 105-236 also sets out the penalties for fraud, evasion, bad checks, etc.

Under current law Mecklenburg County collected \$177,000 in penalties in the previous fiscal year. Because 98% of that revenue was from the \$10 per day penalty, which is not in the sales tax law, they could see a revenue decrease. The magnitude of the change, however, is unknown. The town of Hillsborough does not have a revenue estimate, but indicates the additional enforcement power in the

bill would be helpful dealing with collections. However, they are concerned that the lack of a flat fee or other known amount will make it difficult for them pursue collections in court. Wake County will not be impacted as they already adhere to the sales tax law on penalties. Dare County that they collected \$8,090.50 in meals tax penalties in FY 1997-98 and \$7,060.66 in the previous year. No estimate is available on how the bill will change this revenue stream. No data is available from Cumberland County.

**FISCAL RESEARCH DIVISION 733-4910**

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**DATE:** June 15, 2001



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