

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2015

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SENATE BILL 369

Short Title: Sales Tax Fairness Act. (Public)

Sponsors: Senators Brown, B. Jackson, Clark (Primary Sponsors); Apodaca, Bingham, Daniel, Harrington, Hise, McInnis, Meredith, Newton, Pate, and Randleman.

Referred to: Finance.

March 24, 2015

A BILL TO BE ENTITLED

AN ACT TO PHASE-IN THE CONVERSION OF THE LOCAL SALES AND USE TAXES AUTHORIZED UNDER ARTICLES 39, 40, AND 42 TO A STATE SALES AND USE TAX THAT IS ALLOCATED TO THE COUNTIES AND CITIES ON A PER CAPITA BASIS AS A LOCAL REVENUE SOURCE.

The General Assembly of North Carolina enacts:

SECTION 1.(a) Articles 40 and 42 of Chapter 105 of the General Statutes are repealed.

SECTION 1.(b) G.S. 105-164.13B is repealed.

SECTION 1.(c) G.S. 105-164.4(a) reads as rewritten:

"(a) A privilege tax is imposed on a retailer engaged in business in the State at the percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The general rate of tax is ~~four and three-quarters percent (4.75%)~~. five and three-quarters percent (5.75%). The percentage rates are as follows:

...

(15) The rate of two percent (2%) applies to food other than the following:

a. Dietary supplements.

b. Food sold through a vending machine.

c. Prepared food, other than bakery items sold without eating utensils by an artisan bakery. The term "bakery item" includes bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, and tortillas. An artisan bakery is a bakery that meets all of the following requirements:

i. It derives over eighty percent (80%) of its gross receipts from bakery items.

ii. Its annual gross receipts, combined with the gross receipts of all related persons as defined in G.S. 105-163.010, do not exceed one million eight hundred thousand dollars (\$1,800,000).

d. Candy."

SECTION 1.(d) Part 8 of Article 5 of Chapter 105 of the General Statutes is amended by adding a new section to read:

"§ 105-164.44M. Distribution of part of sales tax revenue to counties and cities.

(a) Purpose and Intent. – It is the purpose of this section to provide a source of revenue to counties and cities to meet their financial needs. There is annually appropriated from the



1 General Fund to the counties and cities the amounts needed to make the distribution under this
 2 section. The General Assembly finds that the revenue distributed under this section is local
 3 revenue, not a State expenditure, for the purposes of Section 5(3) of Article II of the North
 4 Carolina Constitution. The Governor may not reduce or withhold the distribution.

5 (b) Distribution. – The Secretary must distribute, on a monthly basis, part of the taxes
 6 imposed by G.S. 105-164.4 to the counties and cities. The amount the Secretary must distribute
 7 is the sum of the revenue listed in this subsection, less the amount to be deducted in accordance
 8 with subsection (c) of this section:

9 (1) An amount equal to seventeen and thirty-nine hundredths percent (17.39%)
 10 of the net proceeds of the sales and use tax imposed at the general rate of
 11 tax.

12 (2) An amount equal to the net proceeds of the sales and use taxes imposed on
 13 food by G.S. 105-164.4(a)(15).

14 (c) Deduction for Local Government Services. – From the revenue to be distributed
 15 under subsection (b) of this section, the Secretary must deduct the following costs incurred by
 16 the State to provide the functions listed in this subsection that support local governments:

17 (1) The Department's cost of the following for the preceding month:

18 a. The Local Government Division.

19 b. The Property Tax Commission.

20 (2) The Department of State Treasurer's costs for personnel and operations of
 21 the Local Government Commission.

22 (3) One-twelfth of the following for the preceding fiscal year:

23 a. The costs incurred by the School of Government at the University of
 24 North Carolina at Chapel Hill in operating a training program in
 25 property tax appraisal and assessment.

26 b. Seventy percent (70%) of the expenses of the Department of
 27 Revenue in performing the duties imposed by Article 2D of this
 28 Chapter.

29 (d) County Allocation. – The Secretary must allocate the revenue to be distributed
 30 under subdivision (b)(1) of this section to the counties on a per capita basis according to the
 31 most recent annual population estimates certified to the Secretary by the State Budget Office.

32 (d1) Phase-Out of Adjustment Factor. – The Secretary must adjust the amount allocated
 33 to each county under subsection (d) of this section by multiplying the amount by the
 34 appropriate adjustment factor set out in the table below. If, after applying the adjustment
 35 factors, the resulting total of the amounts allocated is greater or lesser than the net proceeds to
 36 be distributed, the amount allocated to each county is proportionately adjusted to eliminate the
 37 excess or shortage.

<u>County</u>	<u>Adjustment Factor</u>
<u>Dare</u>	<u>1.327</u>
<u>Brunswick</u>	<u>1.113</u>
<u>Orange</u>	<u>1.100</u>
<u>Carteret and Durham</u>	<u>1.093</u>
<u>Avery</u>	<u>1.080</u>
<u>Moore</u>	<u>1.073</u>
<u>Transylvania</u>	<u>1.067</u>
<u>Chowan, McDowell, and Richmond</u>	<u>1.060</u>
<u>Pitt and New Hanover</u>	<u>1.047</u>
<u>Beaufort, Perquimans, Buncombe, and Watauga</u>	<u>1.040</u>
<u>Cabarrus, Jackson, and Surry</u>	<u>1.033</u>
<u>Alleghany, Bladen, Robeson, Washington, Craven, Henderson,</u>	<u>1.027</u>
<u>Onslow, and Vance</u>	

1	<u>Gaston, Granville, and Martin</u>	<u>1.020</u>
2	<u>Alamance, Burke, Caldwell, Chatham, Duplin, Edgecombe,</u>	<u>1.013</u>
3	<u>Haywood, Swain, and Wilkes</u>	
4	<u>Hertford, Union, Stokes, Yancey, Halifax, Rockingham, and</u>	<u>1.007</u>
5	<u>Cleveland</u>	
6	<u>Alexander, Anson, Johnston, Northampton, Pasquotank, Person,</u>	<u>1.00</u>
7	<u>Polk, and Yadkin</u>	
8	<u>Catawba, Harnett, Iredell, Pamlico, Pender, Randolph, Stanly, and</u>	<u>0.993</u>
9	<u>Tyrrell</u>	
10	<u>Cherokee, Cumberland, Davidson, Graham, Hyde, Macon,</u>	<u>0.987</u>
11	<u>Rutherford, Scotland, and Wilson</u>	
12	<u>Ashe, Bertie, Franklin, Hoke, Lincoln, Montgomery, and Warren</u>	<u>0.980</u>
13	<u>Wayne, Clay, Madison, Sampson, Wake, Lee, and Forsyth</u>	<u>0.973</u>
14	<u>Caswell, Gates, Mitchell, and Greene</u>	<u>0.967</u>
15	<u>Currituck and Guilford</u>	<u>0.960</u>
16	<u>Davie and Nash</u>	<u>0.953</u>
17	<u>Rowan and Camden</u>	<u>0.947</u>
18	<u>Jones</u>	<u>0.933</u>
19	<u>Mecklenburg</u>	<u>0.927</u>
20	<u>Lenoir</u>	<u>0.920</u>
21	<u>Columbus</u>	<u>0.873</u>
22	<u>(d2) Allocation of Sales Tax on Food. – The Secretary must allocate the revenue to be</u>	
23	<u>distributed under subdivision (b)(2) of this section to the counties as provided in this</u>	
24	<u>subsection.</u>	
25	<u>(1) The Secretary must allocate one-half of the proceeds on a per capita basis</u>	
26	<u>according to the most recent annual population estimates certified to the</u>	
27	<u>Secretary by the State Budget Officer.</u>	
28	<u>(2) The Secretary must allocate the remaining proceeds proportionately to each</u>	
29	<u>taxing county based upon the amount of sales tax on food collected in the</u>	
30	<u>taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter</u>	
31	<u>or under Chapter 1096 of the 1967 Session Laws relative to the total amount</u>	
32	<u>of sales tax on food collected in all taxing counties in the 1997-1998 fiscal</u>	
33	<u>year under Article 39 of this Chapter and under Chapter 1096 of the 1967</u>	
34	<u>Session Laws.</u>	
35	<u>(e) Distribution Between Counties and Cities. – The sum of the amount allocated to</u>	
36	<u>each county under subsection (d) of this section, as adjusted under subsection (d1) of this</u>	
37	<u>section, and the amount allocated to each county under subdivision (d)(2) of this section must</u>	
38	<u>then be divided among the county and its cities on a per capita basis according to the total</u>	
39	<u>population of the county plus the total population of the cities in the county. In the case of a</u>	
40	<u>city located in more than one county, only that part of its population living in the county is</u>	
41	<u>considered its "total population." In order to make the distribution, the Secretary must</u>	
42	<u>determine a per capita figure by dividing the amount allocated to each county by the total</u>	
43	<u>population of the county and the population of each city in the county; each respective product</u>	
44	<u>is the amount to be distributed to the county and to each city in the county. To determine the</u>	
45	<u>population of each county and each city, the Secretary must use the most recent annual estimate</u>	
46	<u>of population certified by the State Budget Office.</u>	
47	<u>(f) Public School Capital Outlay. – A county must use twenty-two and one-half percent</u>	
48	<u>(22.5%) of the revenue received by it under this section for public school capital outlay</u>	
49	<u>purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county</u>	
50	<u>for these purposes. A county may expend part or all of the revenue restricted for public school</u>	
51	<u>capital needs in the fiscal year in which the revenue is received, or the county may place part or</u>	

1 all of this revenue in a capital reserve fund, provided the county specifically identifies this
2 revenue in accordance with Chapter 159 of the General Statutes.

3 A county may use part of all of the revenue restricted by this subsection for any lawful
4 purpose if the county petitions and receives authorization from the Local Government
5 Commission. The petition must be in the form of a resolution adopted by the board of county
6 commissioners and transmitted to the Local Government Commission. The petition must
7 demonstrate that the county can provide for its public school capital needs without restricting
8 the use of part or all of the revenue designated by this subsection for that purpose. In making its
9 decision, the Local Government Commission must consider information contained in the
10 petition concerning all the capital needs of the petitioning county. The Commission may also
11 consider information from sources other than the petition. The Commission must issue a
12 written decision on each petition stating the findings of the Commission concerning the public
13 school capital needs of the petitioning county and the percentage of revenue otherwise
14 restricted by this subsection that may be used by the petitioning county for any lawful purpose.
15 Decisions of the Commission allowing counties to use revenue that would otherwise be
16 restricted under this subsection for any lawful purpose are final. A county whose petition is
17 denied, in whole or in part, by the Commission may subsequently submit a new petition to the
18 Commission.

19 (g) Ineligible Cities. – An ineligible city is disregarded for all purposes under this
20 section. A city incorporated on or after January 1, 2000, is not eligible for a distribution under
21 this section unless it meets both of the following requirements:

22 (1) It is eligible to receive funds under G.S. 136-41.2.

23 (2) A majority of the mileage of its streets is open to the public."

24 **SECTION 1.(e)** G.S. 105-536 reads as rewritten:

25 **"§ 105-536. Limitations.**

26 This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under
27 Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, ~~the first one-half~~
28 ~~cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half~~
29 ~~cent (1/2¢) local sales and use tax under Article 42 of this Chapter.~~Laws."

30 **SECTION 1.(f)** G.S. 105-537(a) reads as rewritten:

31 "(a) Authority. – The board of county commissioners may levy a local sales and use tax
32 at the rate of one-quarter percent (0.25%) upon the occurrence of any of the following:

33 (1) By resolution, if a majority of those voting in a special election held
34 pursuant to subsection (b) of this section approve the levy of the local sales
35 and use tax and the county has given not less than 10 days' public notice.

36 (2) By resolution, if no election has been held within five years under the
37 provisions of subsection (b) of this section in which the tax has been
38 defeated and the county has given not less than 10 days' public notice of and
39 held a public hearing.

40 ~~If the majority of those voting in a referendum held pursuant to this Article vote for the levy~~
41 ~~of the tax, the board of county commissioners may, by resolution and after 10 days' public~~
42 ~~notice, levy a local sales and use tax at a rate of one-quarter percent (0.25%)."~~

43 **SECTION 1.(g)** G.S. 105-537(a), as amended by subsection (f) of this section,
44 reads as rewritten:

45 "(a) Authority. ~~– The board of county commissioners may levy a local sales and use tax~~
46 ~~at the rate of one-quarter percent (0.25%) upon the occurrence of any of the following:~~

47 (1) ~~By resolution, if~~ By resolution, if ~~If~~ a majority of those voting in a special election held
48 pursuant to subsection (b) of this section approve the levy of the local sales
49 and use ~~tax and tax,~~ the board of county commissioners may, by resolution
50 and has given not less than after 10 days' public notice. ~~notice,~~ levy a local
51 sales and use tax at a rate of one-quarter percent (0.25%).

1 (2) ~~By resolution, if no election has been held within five years under the~~
2 ~~provisions subsection (b) of this section in which the tax has been defeated~~
3 ~~and the county has given not less than 10 days' public notice of and held a~~
4 ~~public hearing."~~

5 **SECTION 1.(h)** Subsections (a) through (e) of this section become effective
6 January 1, 2016, and apply to sales occurring on or after that date. Subsection (g) becomes
7 effective January 1, 2020. The remainder of this section is effective when it becomes law.

8 **SECTION 2.(a)** Article 39 of Chapter 105 of the General Statutes is amended by
9 adding a new section to read:

10 **"§ 105-464A. Reduction in Tax Rate.**

11 The tax rate authorized under this Article is one-half percent (1/2%) for sales occurring on
12 or after January 1, 2017. A resolution enacted by a county under this Article before January 1,
13 2017, to levy one percent (1%) local sales and use tax is considered to be a resolution authoring
14 the levy of one-half percent (1/2%) local sales and use tax under this Article. If the board of
15 elections of a county holds a special election for the purpose of submitting to the voters of the
16 county the question of whether the levy of the local sales and use tax authorized under this
17 Article should be repealed, the board of elections must modify the form of the ballot question
18 in accordance with the changes made by this section."

19 **SECTION 2.(b)** Chapter 1096 of the 1967 Session Laws, as amended, is amended
20 by adding a new section to read:

21 **"Sec. 13. Reduction in Tax Rate.** The tax rate authorized under this act is one-half percent
22 (1/2%) for sales occurring on or after January 1, 2017. A resolution enacted by Mecklenburg
23 County under this act before January 1, 2017, to levy one percent (1%) local sales and use tax
24 is considered to be a resolution authorizing the levy of one-half percent (1/2%) local sales and
25 use tax under this act. If the Mecklenburg County Board of Elections holds a special election
26 for the purpose of submitting to the voters of the county the question of whether the levy of the
27 local sales and use tax authorized under this act should be repealed, the Board of Elections
28 must modify the form of the ballot question in accordance with the changes made by this
29 section."

30 **SECTION 2.(c)** G.S. 105-164.4(a), as amended by Section 1 of this act, reads as
31 rewritten:

32 "(a) A privilege tax is imposed on a retailer engaged in business in the State at the
33 percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The
34 general rate of tax is ~~five and three quarters percent (5.75%).~~ six and one quarter percent
35 (6.25%). The percentage rates are as follows:

36 "

37 **SECTION 2.(d)** G.S. 105-164.44M, as enacted by Section 1 of this act, reads as
38 rewritten:

39 **"§ 105-164.44M. Distribution of part of sales tax revenue to counties and cities.**

40 ...

41 (b) Distribution. – The Secretary must distribute, on a monthly basis, part of the taxes
42 imposed by G.S. 105-164.4 to the counties and cities. The amount the Secretary must distribute
43 is the sum of the revenue listed in this subsection, less the amount to be deducted in accordance
44 with subsection (c) of this section:

45 (1) An amount equal to ~~seventeen and thirty nine hundredths percent (17.39%)~~
46 twenty-four percent (24%) of the net proceeds of the sales and use tax
47 imposed at the general rate of tax.

48 (2) An amount equal to the net proceeds of the sales and use taxes imposed on
49 food by G.S. 105-164.4(a)(15).

50 ...

(d1) Phase-Out of Adjustment Factor. – The Secretary must adjust the amount allocated to each county under subsection (d) of this section by multiplying the amount by the appropriate adjustment factor set out in the table below. If, after applying the adjustment factors, the resulting total of the amounts allocated is greater or lesser than the net proceeds to be distributed, the amount allocated to each county is proportionately adjusted to eliminate the excess or shortage.

County	Adjustment Factor
Dare	1.327 <u>1.163</u>
Brunswick	1.113 <u>1.057</u>
Orange	1.100 <u>1.050</u>
Carteret and Durham	1.093 <u>1.047</u>
Avery	1.080 <u>1.040</u>
Moore	1.073 <u>1.037</u>
Transylvania	1.067 <u>1.033</u>
Chowan, McDowell, and Richmond	1.060 <u>1.030</u>
Pitt and New Hanover	1.047 <u>1.023</u>
Beaufort, Perquimans, Buncombe, and Watauga	1.040 <u>1.020</u>
Cabarrus, Jackson, and Surry	1.033 <u>1.017</u>
Alleghany, Bladen, Robeson, Washington, Craven, Henderson, Onslow, and Vance	1.027 <u>1.013</u>
Gaston, Granville, and Martin	1.020 <u>1.010</u>
Alamance, Burke, Caldwell, Chatham, Duplin, Edgecombe, Haywood, Swain, and Wilkes	1.013 <u>1.007</u>
Hertford, Union, Stokes, Yancey, Halifax, Rockingham, and Cleveland	1.007 <u>1.003</u>
Alexander, Anson, Johnston, Northampton, Pasquotank, Person, Polk, and Yadkin	1.00
Catawba, Harnett, Iredell, Pamlico, Pender, Randolph, Stanly, and Tyrrell	0.993 <u>0.997</u>
Cherokee, Cumberland, Davidson, Graham, Hyde, Macon, Rutherford, Scotland, and Wilson	0.987 <u>0.993</u>
Ashe, Bertie, Franklin, Hoke, Lincoln, Montgomery, and Warren	0.980 <u>0.990</u>
Wayne, Clay, Madison, Sampson, Wake, Lee, and Forsyth	0.973 <u>0.987</u>
Caswell, Gates, Mitchell, and Greene	0.967 <u>0.983</u>
Currituck and Guilford	0.960 <u>0.980</u>
Davie and Nash	0.953 <u>0.977</u>
Rowan and Camden	0.947 <u>0.973</u>
Jones	0.933 <u>0.967</u>
Mecklenburg	0.927 <u>0.963</u>
Lenoir	0.920 <u>0.960</u>
Columbus	0.873 <u>0.937</u>

(d2) Allocation of Sales Tax on Food. – The Secretary must allocate the revenue to be distributed under subdivision (b)(2) of this section to the counties as provided in this subsection.

- (1) The Secretary must allocate ~~one-half~~ seventy-five percent (75%) of the proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer.
- (2) The Secretary must allocate the remaining proceeds proportionately to each taxing county based upon the amount of sales tax on food collected in the taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total amount

1 of sales tax on food collected in all taxing counties in the 1997-1998 fiscal
2 year under Article 39 of this Chapter and under Chapter 1096 of the 1967
3 Session Laws.

4"

5 **SECTION 2.(e)** G.S. 105-536, as amended by Section 1 of this act, reads as
6 rewritten:

7 "**§ 105-536. Limitations.**

8 This Article applies only to counties that levy the ~~first one cent (1¢) one-half percent~~
9 (1/2%) sales and use tax under Article 39 of this Chapter or under Chapter 1096 of the 1967
10 Session Laws."

11 **SECTION 2.(f)** This section becomes effective January 1, 2017, and applies to
12 sales occurring on or after that date.

13 **SECTION 3.(a)** Article 39 of Chapter 105 of the General Statutes, as amended by
14 this act, and Chapter 1096 of the 1967 Session Laws, as amended by this act, are repealed.

15 **SECTION 3.(b)** G.S. 105-164.4(a), as amended by Section 2 of this act, reads as
16 rewritten:

17 "(a) A privilege tax is imposed on a retailer engaged in business in the State at the
18 percentage rates of the retailer's net taxable sales or gross receipts, listed in this subsection. The
19 general rate of tax is ~~six and one quarter percent (6.25%).~~ six and three-quarters percent
20 (6.75%). The percentage rates are as follows:

21"

22 **SECTION 3.(c)** G.S. 105-164.44M, as enacted by Section 1 of this act and as
23 amended by Section 2 of this act, reads as rewritten:

24 "(b) Distribution. – The Secretary must distribute, on a monthly basis, part of the taxes
25 imposed by G.S. 105-164.4 to the counties and cities. The amount the Secretary must distribute
26 is the sum of the revenue listed in this subsection, less the amount to be deducted in accordance
27 with subsection (c) of this section:

- 28 (1) An amount equal to ~~twenty-four percent (24%)~~ twenty-nine and sixty-three
29 percent (29.63%) of the net proceeds of the sales and use tax imposed at the
30 general rate of tax.
31 (2) An amount equal to the net proceeds of the sales and use taxes imposed on
32 food by G.S. 105-164.4(a)(15).

33 ...

34 (d) County Allocation. – The Secretary must allocate the revenue to be distributed
35 ~~under subdivision (b)(1)~~ subsection (b) of this section to the counties on a per capita basis
36 according to the most recent annual population estimates certified to the Secretary by the State
37 Budget Office.

38 (e) Distribution Between Counties and Cities. —~~The sum of the amount allocated to~~
39 ~~each county under subsection (d) of this section, as adjusted under subsection (d1) of this~~
40 ~~section, and the amount allocated to each county under subdivision (d)(2) of this section~~ The
41 amount allocated to each county under subsection (d) of this section must then be divided
42 among the county and its cities on a per capita basis according to the total population of the
43 county plus the total population of the cities in the county. In the case of a city located in more
44 than one county, only that part of its population living in the county is considered its "total
45 population." In order to make the distribution, the Secretary must determine a per capita figure
46 by dividing the amount allocated to each county by the total population of the county and the
47 population of each city in the county; each respective product is the amount to be distributed to
48 the county and to each city in the county. To determine the population of each county and each
49 city, the Secretary must use the most recent annual estimate of population certified by the State
50 Budget Office.

51"

1 **SECTION 3.(d)** G.S. 105-164.44M(d1) and (d2), as enacted by Section 1 of this
2 act and as amended by Section 2 of this act, are repealed.

3 **SECTION 3.(e)** G.S. 105-164.3(4a) reads as rewritten:

4 "**§ 105-164.3. Definitions.**

5 The following definitions apply in this Article:

6 ...

7 (4a) Combined general rate. – The State's general rate of tax set in
8 G.S. 105-164.4(a) plus the ~~sum of the rates of the local sales and use taxes~~
9 one-quarter cent (1/4¢) county sales and use tax authorized by Article 46 of
10 Subchapter VIII of this Chapter for every county in this State."

11 **SECTION 3.(f)** Article 46 of Chapter 105 of the General Statutes, as amended by
12 this act, reads as rewritten:

13 "Article 46.

14 "One-Quarter Cent (1/4¢) County Sales and Use Tax.

15 "**§ 105-535. Short title.**

16 This Article is the One-Quarter Cent (1/4¢) County Sales and Use Tax Act.

17 ~~"§ 105-536. Limitations.~~

18 ~~This Article applies only to counties that levy the one-half percent (1/2%) sales and use tax~~
19 ~~under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws.~~

20 "**§ 105-537. Levy.**

21 (a) Levy. – The board of county commissioner may levy a local sales and use tax at the
22 rate of one-quarter percent (0.25%) upon the occurrence of any of the following:

23 (1) By resolution, if a majority of those voting in a special election held
24 pursuant to subsection (b) of this section approve the levy of the local sales
25 and use tax and the county has given not less than 10 days' public notice.

26 (2) By resolution, if no election has been held within five years under the
27 provisions subsection (b) of this section in which the tax has been defeated
28 and the county has given not less than 10 days' public notice of and held a
29 public hearing.

30 (b) Vote. – The board of county commissioners may direct the county board of
31 elections to conduct an advisory referendum on the question of whether to levy a local sales
32 and use tax in the county as provided in this Article. The election shall be held in accordance
33 with the procedures of G.S. 163-287.

34 (c) Ballot Question. – The form of the question to be presented on a ballot for a special
35 election concerning the levy of the tax authorized by this Article shall be:

36 "[] FOR [] AGAINST

37 Local sales and use tax at the rate of one-quarter percent (0.25%) in addition to all other
38 State and local sales and use taxes.

39 (d) Repealed by Session Laws 2014-3, s. 14.22, effective May 29, 2014.

40 (e) Effective Date of Levy. – Collection of and liability for the tax must begin and
41 continue only on and after the first day of a calendar quarter, as set by the board of county
42 commissioners in the resolution levying the tax. In no event may the tax be imposed, or the tax
43 rate changed, earlier than the first day of the second succeeding calendar month after the date of
44 the adoption of the resolution. The county must give the Secretary at least 90 days' advance
45 notice of a new tax levy or tax rate change. The applicability of a new tax or a tax rate change
46 to purchases from printed catalogs becomes effective on the first day of a calendar quarter after
47 a minimum of 120 days from the date the Secretary notifies the seller that receives orders by
48 means of a catalog or similar publication of the new tax or tax rate change.

49 (f) Notification. – Upon adoption of a resolution levying the tax, the board of county
50 commissioners must immediately deliver a certified copy of the resolution to the Secretary,
51 accompanied by a certified statement from the county board of elections, if applicable, setting

1 forth the results of any special election approving the tax in the county. Upon receipt of these
2 documents, the Secretary shall collect and administer the tax as provided in this Article.

3 **"§ 105-538. Administration of taxes. Uniform provisions for local sales and use tax.**

4 ~~Except as provided in this Article, the adoption, levy, collection, administration, and repeal~~
5 ~~of these additional taxes must be in accordance with Article 39 of this Chapter. G.S. 105-468.1~~
6 ~~is an administrative provision that applies to this Article. A tax levied under this Article does~~
7 ~~not apply to the sales price of food that is exempt from tax pursuant to G.S. 105-164.13B or to~~
8 ~~the sales price of a bundled transaction taxable pursuant to G.S. 105-467(a)(5a). The Secretary~~
9 ~~shall not divide the amount allocated to a county between the county and the municipalities~~
10 ~~within the county.~~

11 (a) Collection. – A retailer whose place of business is in a taxing county must collect
12 the tax authorized by this Article on and after the effective date of the levy of the tax. The tax is
13 collected as a part of the sales price of the item of tangible personal property sold, the cost price
14 of the item of tangible personal property used, or as a part of the charge for the rendering of any
15 services, renting or leasing of tangible personal property, or the furnishing of any
16 accommodation taxable under this Article. The tax must be stated and charged separately from
17 the sales price or cost price and must be shown separately on the retailer's sales record. The tax
18 is paid by the purchaser to the retailer as trustee for and on account of the State or county
19 wherein the tax is imposed. It is the intent and purpose of this Article that the local sales and
20 use tax authorized to be imposed and levied by a taxing county under this Article is to be added
21 to the sales price and that the tax is passed on to the purchaser instead of being borne by the
22 retailer.

23 (b) Administration. – The definitions set forth in G.S. 105-164.3 apply to this Article.
24 The Secretary must collect and administer this tax in accordance with this Article. The tax shall
25 be collected and administered in the same manner as the State sales and use taxes imposed by
26 Article 5 of this Chapter insofar as the provisions are not inconsistent with this Article. The
27 Secretary of Revenue shall design, print, and furnish to all retailers in a taxing county the
28 necessary forms for filing returns and instructions to insure the full collection from retailers.

29 (c) Use Tax. – The Secretary must require retailers who collect use tax on sales to
30 North Carolina residents to ascertain the county of residence of each buyer and provide that
31 information to the Secretary along with any other information necessary for the Secretary to
32 allocate the use tax proceeds to the correct taxing county.

33 (d) Building Materials. – The provisions of this Article shall not be applicable with
34 respect to any building materials purchased for the purpose of fulfilling any lump sum or unit
35 price contract entered into or awarded, or entered into or awarded pursuant to any bid made,
36 before the effective date of the tax imposed by a taxing county when, absent the provisions of
37 this section, such building materials would otherwise be subject to tax under the provisions of
38 this Article.

39 **"§ 105-539. Scope of sales and use tax.**

40 (a) Sales Tax. – The sales tax that may be imposed under this Article is limited to a tax
41 at the rate of one-quarter percent (0.25%) of a retailer's net taxable sales and gross receipts that
42 are subject to the general rate of sales tax imposed by the State under G.S. 105-164.4 except the
43 tax does not apply to the sales price of a manufactured home or a modular home.

44 (b) Use Tax. – The use tax that may be imposed under this Article is limited to a tax at
45 the rate of one-quarter percent (0.25%) of the cost price of each item or article of tangible
46 personal property that is not sold in the taxing county but is used, consumed, or stored for use
47 or consumption in the taxing county. The tax applies to the same items that are subject to tax
48 under G.S. 105-467.

49 (c) Sourcing. – The sourcing principles in G.S. 105-164.4B apply in determining
50 whether the local sales tax applies to a transaction.

1 (d) Credit for Tax Paid. – Where a local sales or use tax was due and has been paid with
2 respect to tangible personal property by the purchaser in another taxing county within the State,
3 or where a local sales or use tax was due and has been paid in a taxing jurisdiction outside the
4 State where the purpose of the tax is similar in purpose and intent to the tax which may be
5 imposed pursuant to this Article, the tax paid may be credited against the tax imposed under
6 this section by a taxing county upon the same property. If the amount of sales or use tax paid is
7 less than the amount of the use tax due the taxing county under this section, the purchaser must
8 pay to the Secretary an amount equal to the difference between the amount paid in the other
9 taxing county or jurisdiction and the amount due in the taxing county. The Secretary may
10 require proof of payment in another taxing county or jurisdiction as the Secretary deems
11 necessary. The use tax levied under this Article is not subject to credit for payment of any State
12 sales or use tax not imposed for the benefit and use of counties. No credit shall be given under
13 this section for sales or use taxes paid in a taxing jurisdiction outside this State if that taxing
14 jurisdiction does not grant similar credit for sales taxes paid under this Article.

15 **"§ 105-540. Exemptions and Refunds.**

16 (a) Exemptions and Refunds. – The State exemptions and exclusions contained in
17 G.S. 105-164.13 apply to the local sales and use tax authorized to be levied and imposed under
18 this Article.

19 (b) Refunds. – The State refund provisions contained in G.S. 105-164.14 through
20 G.S. 105-164.14B apply to the local sales and use tax authorized to be levied and imposed
21 under this Article. The refund allowed under this section does not apply to purchases of
22 electricity, telecommunications service, ancillary service, piped natural gas, video
23 programming, or a prepaid meal plan.

24 (c) Local Refund Allowed. – Except as provided in this section, a taxing county may
25 not allow an exemption, exclusion, or refund that is not allowed under the State sales and use
26 tax. A local school administrative unit and a joint agency created by interlocal agreement
27 among local school administrative units pursuant to G.S. 160A-462 to jointly purchase food
28 service-related materials, supplies, and equipment on their behalf is allowed an annual refund
29 of sales and use taxes paid by it under this Article on direct purchases of tangible personal
30 property and services. Sales and use tax liability indirectly incurred by the entity on building
31 materials, supplies, fixtures, and equipment that become a part of or annexed to any building or
32 structure that is owned or leased by the entity and is being erected, altered, or repaired for use
33 by the entity is considered a sales or use tax liability incurred on direct purchases by the entity
34 for the purpose of this subsection.

35 (d) Rescinded and Cancelled Sales. – A refund of an excessive or erroneous State sales
36 tax collection allowed under G.S. 105-164.11 and a refund of State sales tax paid on a
37 rescinded sale or cancelled service contract under G.S. 105-164.11A apply to the local sales
38 and use tax authorized to be levied and imposed under this Article.

39 (e) Application. – A request for a refund is due in the same time and manner as
40 provided in G.S. 105-164.14(c). Refunds applied for more than three years after the due date
41 are barred.

42 **"§ 105-541. Distribution of Revenue.**

43 The Secretary must, on a monthly basis, allocate to each taxing county for which the
44 Secretary collects the tax the net proceeds of the tax collected in that county under this Article.
45 The Secretary shall not divide the amount allocated to a county between the county and the
46 municipalities within the county. For the purpose of this section, "net proceeds" means the
47 gross proceeds of the tax collected in each county under this Article less taxes refunded, the
48 cost to the State of collecting and administering the tax in the county as determined by the
49 Secretary, and other deductions that may be charged to the county. If the Secretary collects
50 local sales or use taxes in a month and the taxes cannot be identified as being attributable to a
51 particular taxing county, the Secretary shall allocate the taxes among the taxing counties in

1 proportion to the amount of taxes collected in each county under this Article during that month
2 and shall include them in the monthly distribution. Amounts collected by electronic funds
3 transfer payments are included in the distribution for the month in which the return that applies
4 to the payment is received.

5 **"§ 105-542. Repeal of levy.**

6 (a) The board of elections of any county, upon the written request of the board of
7 county commissioners thereof, or upon receipt of a petition signed by qualified voters of the
8 county equal in number to at least fifteen percent (15%) of the total number of votes cast in the
9 county at the last preceding election for the office of Governor, shall call a special election for
10 the purpose of submitting to the voters of the county the question of whether the levy of a
11 one-quarter percent (0.25%) sales and use tax theretofore levied should be repealed. The special
12 election shall be held under the same rules and regulations applicable to the election of
13 members of the General Assembly. In addition, the board of county commissioners may, by
14 resolution and without the necessity of an election proceed to terminate the levy and the
15 imposition of the tax in the taxing county if the tax was levied without an election.

16 (b) Ballot Question. – The county board of elections shall prepare ballots for the special
17 election which shall contain the words "FOR repeal of the one-quarter percent (0.25%) local
18 sales and use tax levy," and the words "AGAINST repeal of the one-quarter percent (0.25%)
19 local sales and use tax levy," with appropriate squares so that each voter may designate his vote
20 by his cross (X) mark.

21 The county board of elections shall fix the date of the special election on a date permitted
22 by G.S. 163-287; provided, however, that the special election shall not be held within one year
23 from the date of the last preceding special election held under this section.

24 (c) Notification. – The board of county commissioners, upon adoption of said
25 resolution, shall cause a certified copy of the resolution to be delivered immediately to the
26 Secretary of Revenue, accompanied by a certified statement from the county board of elections,
27 if applicable, setting forth the results of any special election approving the repeal of the tax in
28 the county.

29 (d) Effective Date. – No termination of taxes levied and imposed under this Article
30 shall be effective until the end of the fiscal year in which the repeal election was held. No
31 liability for any tax levied under this Article which shall have attached prior to the effective
32 date on which a levy is terminated shall be discharged as a result of such termination, and no
33 right to a refund of tax or otherwise which shall have accrued prior to the effective date on
34 which a levy is terminated shall be denied as a result of such termination."

35 **SECTION 3.(g)** G.S. 105-507.2 reads as rewritten:

36 **"§ 105-507.2. Levy and collection of sales and use tax.**

37 If the majority of those voting in a referendum held pursuant to G.S. 105-507.1 vote for the
38 levy of the tax, the board of commissioners of the county may, by resolution, levy one-half
39 percent (½%) local sales and use taxes in addition to any other State and local sales and use
40 taxes levied pursuant to law. Except as provided in this Part, the adoption, levy, collection,
41 administration, and repeal of these additional taxes shall be in accordance with ~~Article 39~~
42 Article 46 of this Chapter. In applying the provisions of ~~Article 39~~ Article 46 of this Chapter to
43 this Part, references to "this Article" mean "Part 1 of Article 43 of Chapter 105 of the General
44 Statutes."

45 **SECTION 3.(h)** G.S. 105-509.1 reads as rewritten:

46 **"§ 105-509.1. Levy and collection of sales and use tax – regional public transportation**
47 **authority.**

48 If the majority of those voting in a referendum held pursuant to G.S. 105-509 vote for the
49 levy of the tax, the transportation authority may, by resolution, levy one-half percent (½%)
50 local sales and use taxes within the special district, in addition to any other State and local sales
51 and use taxes levied pursuant to law. In determining the results of the election in a multicounty

1 district, all the counties of the district shall be considered to be one unit but also must receive a
2 majority vote in each county, except that if the referendum is passed in one or more but not all
3 of the counties, the counties in which the referendum was not approved are removed from the
4 special district upon certification of the election result and the county or counties that approved
5 the referendum shall remain in the special district. Except as provided in this Part, the adoption,
6 levy, collection, administration, and repeal of these additional taxes shall be in accordance with
7 ~~Article 39~~ Article 46 of this Chapter. In applying the provisions of ~~Article 39~~ Article 46 of this
8 Chapter to this Article, references to "this Article" mean "Part 4 of Article 43 of Chapter 105 of
9 the General Statutes." Any repeal of the tax shall be done by the same procedure as its
10 enactment under this section, and in a multicounty district a petition for repeal under
11 ~~G.S. 105-473~~ G.S. 105-542 shall be judged by the total votes in all the counties in the district."

12 **SECTION 3.(i)** G.S. 105-510.1 reads as rewritten:

13 "**§ 105-510.1. Levy and collection of sales and use tax – regional transportation authority.**

14 If the majority of those voting in a referendum held pursuant to G.S. 105-510 vote for the
15 levy of the tax, the transportation authority may, by resolution, levy one-half percent (1/2%)
16 local sales and use taxes within the special district, in addition to any other State and local sales
17 and use taxes levied pursuant to law. In determining the results of the election in a multicounty
18 district, all the counties of the district shall be considered to be one unit but also must receive a
19 majority vote in each county, except that if the referendum is passed in one but not both of the
20 counties, the county in which the referendum was not approved is removed from the special
21 district upon certification of the election result and the county that approved the referendum
22 shall remain in the special district. Except as provided in this Part, the adoption, levy,
23 collection, administration, and repeal of these additional taxes shall be in accordance with
24 ~~Article 39~~ Article 46 of this Chapter. In applying the provisions of ~~Article 39~~ Article 46 of this
25 Chapter to this Article, references to "this Article" mean "Part 5 of Article 43 of Chapter 105 of
26 the General Statutes." Any repeal of the tax shall be done by the same procedure as its
27 enactment under this section, and in a multicounty district a petition for repeal under
28 ~~G.S. 105-473~~ G.S. 105-542 shall be judged by the total votes in all the counties in the district."

29 **SECTION 3.(j)** G.S. 105-511.3 reads as rewritten:

30 "**§ 105-511.3. Levy and collection of sales and use tax.**

31 If the majority of those voting in a referendum held pursuant to this Part vote for the levy of
32 the tax, the board of commissioners of the county may, by resolution, levy one-quarter percent
33 (1/4%) local sales and use taxes in addition to any other State and local sales and use taxes
34 levied pursuant to law. Except as provided in this Part, the adoption, levy, collection,
35 administration, and repeal of these additional taxes shall be in accordance with ~~Article~~
36 ~~39~~ Article 46 of this Chapter. In applying the provisions of ~~Article 39~~ Article 46 of this Chapter
37 to this Part, references to "this Article" mean "Part 6 of Article 43 of Chapter 105 of the
38 General Statutes."

39 **SECTION 3.(k)** This section becomes effective January 1, 2018, and applies to
40 sales occurring on or after that date.

41 **SECTION 4.** This act does not affect the rights or liabilities of a taxing county, a
42 taxpayer, or another person arising under a statute repealed by this act before the effective date
43 of its repeal; nor does it affect the right to any refund or credit of a tax that accrued under the
44 repealed statute before the effective date of its repeal.

45 **SECTION 5.** Except as otherwise provided, this act is effective when it becomes
46 law.