

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2021

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SENATE BILL DRS45281-MCxf-161

Short Title: Local Option Sales Tax Flexibility. (Public)

Sponsors: Senators Burgin and Foushee (Primary Sponsors).

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO GIVE COUNTIES ADDITIONAL FLEXIBILITY WITH REGARD TO THE  
3 LOCAL OPTION SALES AND USE TAX WITHOUT INCREASING THE EXISTING  
4 MAXIMUM TAX RATE.

5 The General Assembly of North Carolina enacts:

6 SECTION 1. Article 46 of Chapter 105 of the General Statutes reads as rewritten:

7 "Article 46.

8 "One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use Tax.

9 "§ 105-535. Short title.

10 This Article is the One-Quarter Cent (1/4¢) or One-Half Cent (1/2¢) County Sales and Use  
11 Tax Act.

12 "§ 105-536. Limitations.

13 This Article applies only to counties that levy the first one-cent (1¢) sales and use tax under  
14 Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half  
15 cent (1/2¢) local sales and use tax under Article 40 of this Chapter, and the second one-half cent  
16 (1/2¢) local sales and use tax under Article 42 of this Chapter.

17 "§ 105-537. Levy.

18 (a) Authority. – A tax levied under this Article must be approved in a referendum. If the  
19 majority of those voting in a referendum held pursuant to this Article vote for the levy of the tax,  
20 the board of county commissioners may, by resolution and after 10 days' public notice, levy a  
21 local sales and use tax at ~~a rate of one-quarter percent (0.25%)~~ the applicable rate. The applicable  
22 rate must meet all of the following conditions:

23 (1) It must be in an increment of one-quarter percent (1/4%).

24 (2) It must be at a rate that, if levied, would not result in a total local sales and use  
25 tax rate in the county in excess of the following:

26 a. Two and one-half percent (2 1/2%) if the county is authorized to levy  
27 a local sales and use tax under Part 6 of Article 43 of this Chapter.

28 b. Two and three-quarters percent (2 3/4%) if the county is authorized to  
29 levy, or is located in a special district authorized to levy, a local sales  
30 and use tax under Part 2, Part 4, or Part 5 of Article 43 of this Chapter.

31 (b) Vote. – The board of county commissioners may direct the county board of elections  
32 to conduct an advisory referendum on the question of whether to levy a local sales and use tax in  
33 the county as provided in this Article. The election shall be held in accordance with the  
34 procedures of ~~G.S. 163A-1592~~ G.S. 163A-1592, except that the election shall not be held within  
35 one year from the date of the last preceding election under this section.



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

" [ ] FOR [ ] AGAINST

Local sales and use tax at the rate of ~~one-quarter percent (0.25%)~~ [The applicable rate stated in both words and as a percentage] in addition to all other State and local sales and use taxes. ~~"taxes to be used for [the applicable use or uses chosen from the options listed in G.S. 105-538(b)]."~~

**"§ 105-538. Administration and use of taxes.**

(a) Administration. – The Secretary shall, on a monthly basis, allocate to each taxing county the net proceeds of the tax levied under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month. For purposes of this Article, the term "net proceeds" has the same meaning as defined in G.S. 105-472.

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

(b) Use. – A county must use the net proceeds of a tax levied under this Article only for one or more of the following, as indicated on the ballot question presented pursuant to G.S. 105-537(c):

<u>Use</u>	<u>Ballot Language</u>
<u>Any public purpose</u>	<u>Any public purpose</u>
<u>Public education purposes</u>	<u>Only public education purposes</u>

(c) Definitions. – For purposes of this section, the following definitions apply:

- (1) Net proceeds. – Defined in G.S. 105-472.
- (2) Public education purposes. – Any of the following purposes:
  - a. Public school capital outlay purposes, as defined in G.S. 115C-426(f), or to retire any indebtedness incurred by the county for these purposes.
  - b. Supplements of classroom teacher salaries. For the purposes of this section, a classroom teacher is an employee of a local board of education employed as a teacher who spends at least seventy percent (70%) of his or her work time in classroom instruction.
  - c. Financial support of community colleges, including funds to supplement State financial support of community colleges."

**SECTION 2.** Part 1 of Article 43 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-506.3. Rate limitation.**

A local sales and use tax may only be levied under this Article if the total local sales and use tax rate in the county, including a levy under this Article, is not in excess of the following:

- (1) Two and one-half percent (2 1/2%) if the county is authorized to levy a local sales and use tax under Part 6 of this Article.
- (2) Two and three-quarters percent (2 3/4%) if the county is authorized to levy, or is located in a special district authorized to levy, a local sales and use tax under Part 2, Part 4, or Part 5 of this Article."

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

"(4a) Combined general rate. – The sum of all of the following:

- 1                   a.     The State's general rate of tax set in ~~G.S. 105-164.4(a)~~
- 2                             G.S. 105-164.4(a).
- 3                   b.     ~~plus the~~ The sum of the rates of the local sales and use taxes authorized
- 4                             for every county in this State by ~~Subchapter VIII~~ Article 39 of this
- 5                             Chapter or Chapter 1096 of the 1967 Session Laws, Article 40 of this
- 6                             Chapter, and Article 42 of this ~~Chapter for every county in this~~
- 7                             State.Chapter.
- 8                   c.     One-half of the maximum rate of tax authorized by Article 46 of this
- 9                             Chapter."

10                   **SECTION 4.** This act is effective when it becomes law.