# Sales Tax Treatment of Food and Prepared Food

**Revenue Laws Study Committee**
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# Overview

- The Small Business Protection Act, S.L. 2008-107 (Section 28.16)
- History of the Sales and Use Tax and Food
- Revenue and Recent Challenges
- Options
- Conclusion

# The Small Business Protection Act (SBPA)

- Revenue Laws Study Committee:
  - Taxation of services
  - Differentiation between retailers and performance contractors
  - Distinction between food and prepared food

# History of the Sales and Use Tax and Food

1933 → Exempts food for human consumption

1961 → Repeals food exemption

# History of the Sales and Use Tax and Food

| | |
|---|---|
| 1998 | Eliminates the State sales and use tax rate on food |
| 2000 | Enters Streamlined Sales Tax Project |
| 2001 | Redefines food into two types |
| 2003 | Determines prepared food is taxable by the state |

# Food for Home Consumption

- Definition—G.S. 105-164.13B
- Exempt unless it is defined as:
  - Dietary supplements
  - Vending machine items
  - Prepared food
  - Soft drinks
  - Candy

# Food for Home Consumption

Fiscal Year 07-08

- Sales and use tax rate
  - State rate 0%
  - Local rate 2%
- Local Revenue $246 M

# Prepared Food

- Definition—G.S. 105-164.3(28)
- Subject to the State and local sales tax if:
  - It is sold in a heated state
  - It consists of two or more foods mixed or combined by retailer
  - It is sold with eating utensils

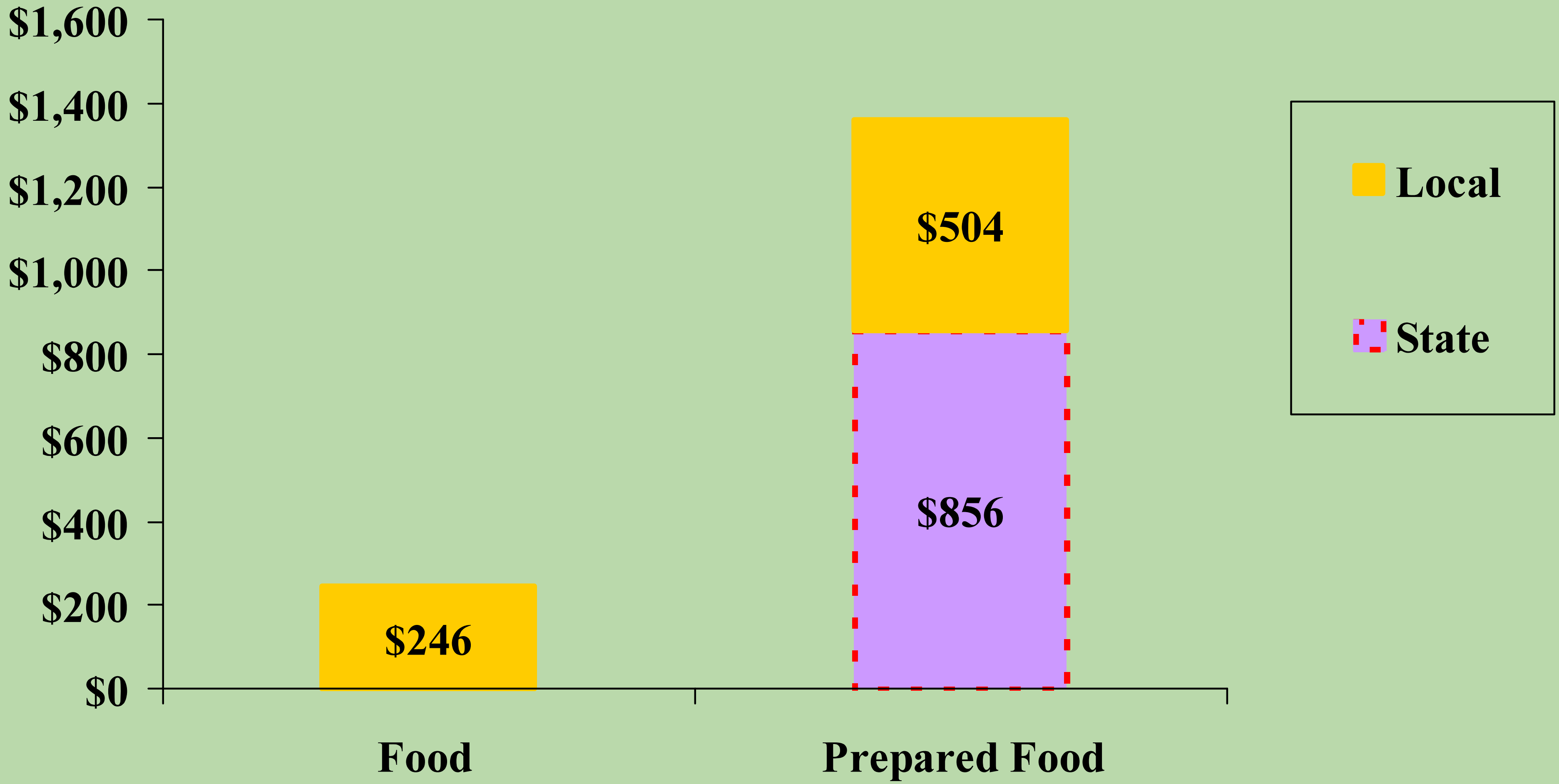
# Prepared Food

Fiscal Year 07-08

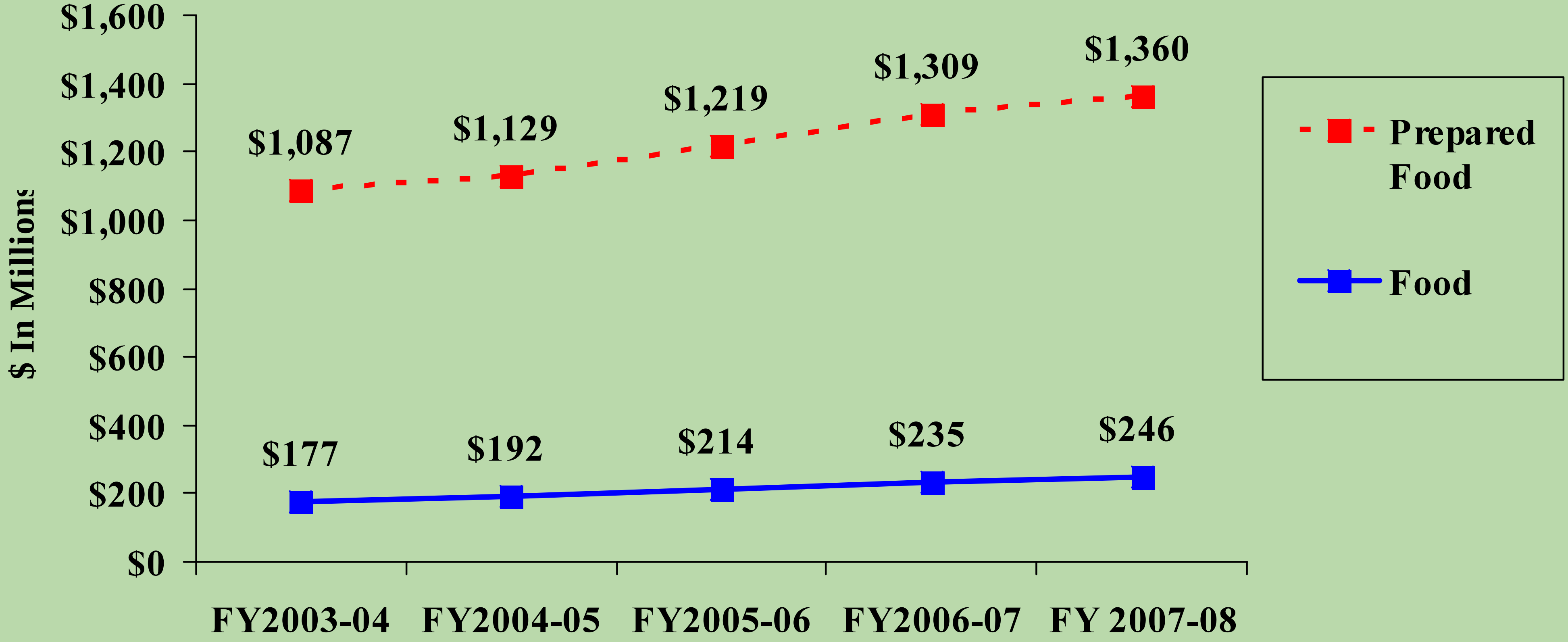
- Sales and use tax rate 6.75%
  - State 4.25%
  - Local 2.5%

- Revenue $1.4 Bill.
  - State $856 Mill.
  - Local $504 Mill.

# Tax Collections on Food and Prepared Food, FY07-08



# Sales Tax Collections on Food and Prepared Food ($ In Millions)

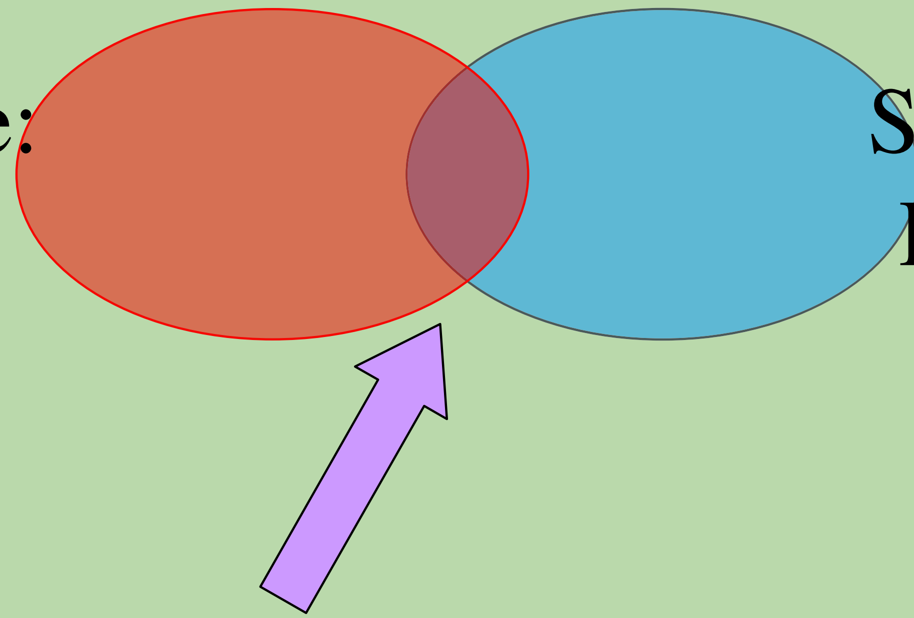



Source: 2004-2008 Statistical Abstract, North Carolina Department of Revenue, Tables 32, 56 and 57 in most publications

# Recent Challenges

- Blurred line between food and prepared food
- Difficulty in administering different rates

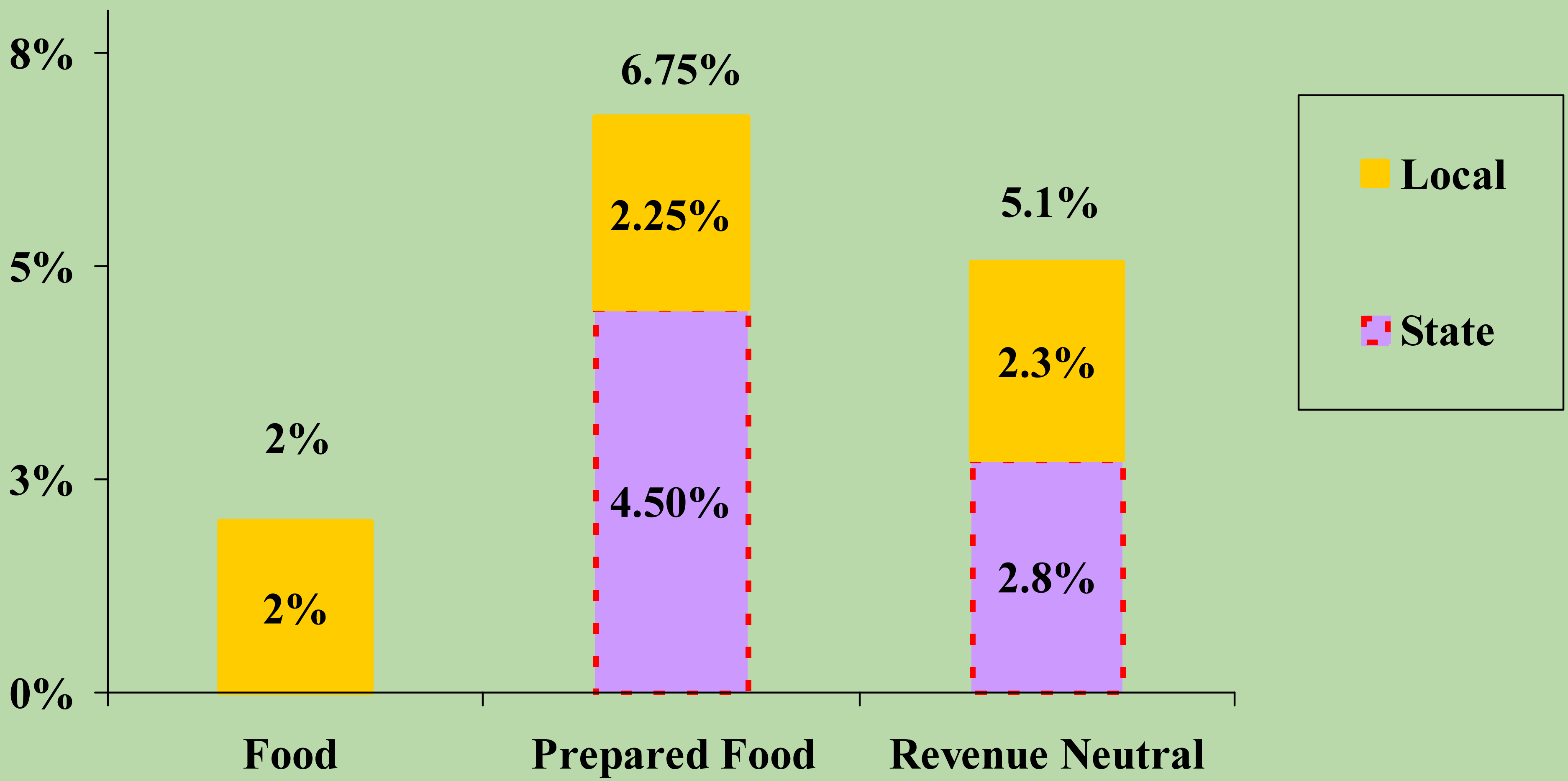
# A Day in the Life of a Bag of Potato Chips




# Options?

- Determine differences as they come
- Implement revenue neutral rate
- Other suggestions

# Revenue Neutral Rate for Food and Prepared Food



# Options?

- How other states tax food
  - U.S.
  - Streamlined Sales and Use Tax Project
- Past recommendations

# Other States Tax Treatment

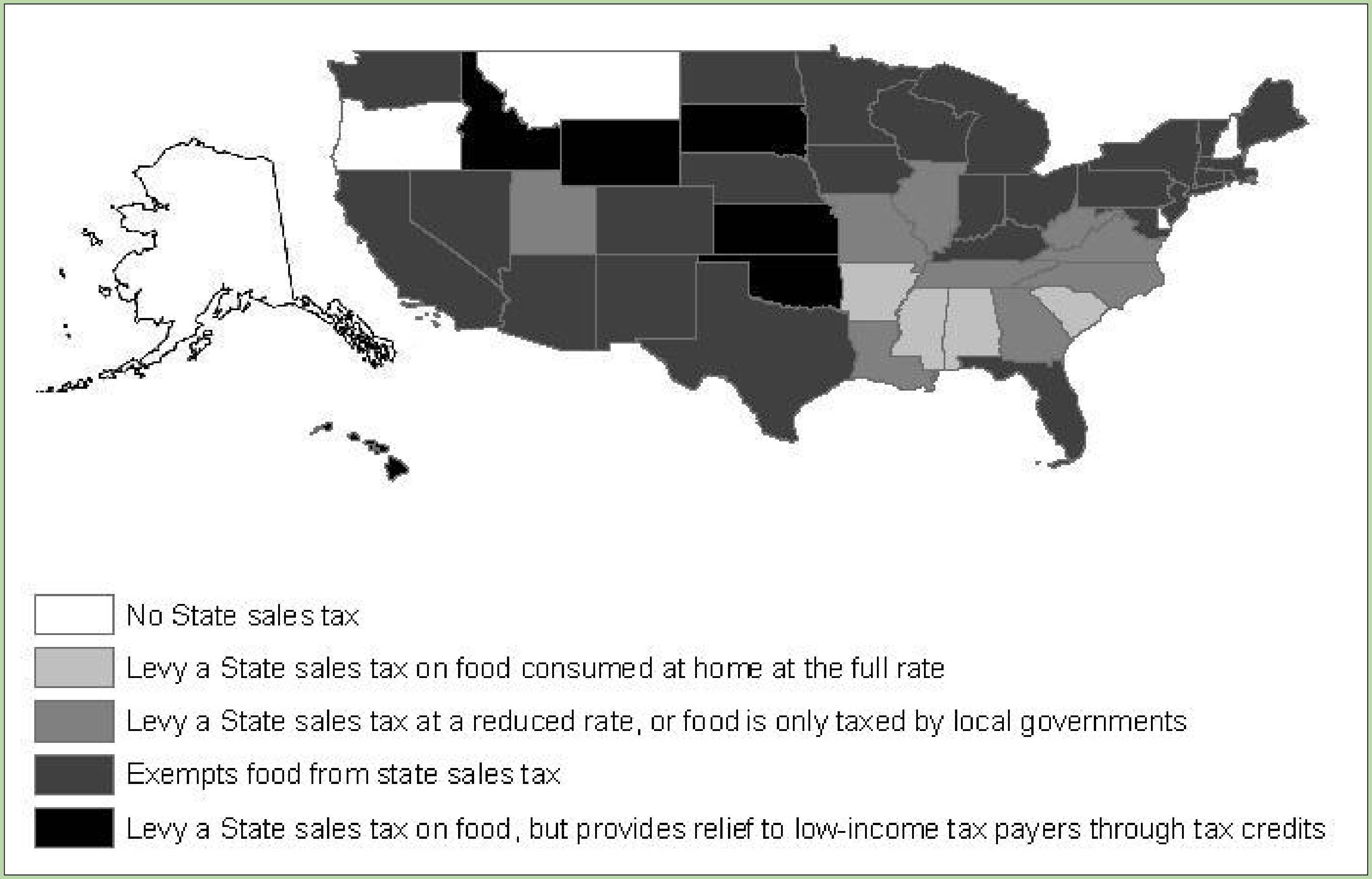
**U.S.**

- Ten levy the full rate
- Five levy reduced rates
- Three apply local tax
- 27 states exempt food
- Five levy full rate but w/ caveats
- Five no sales tax

**Streamlined**

- 21 states
- 12 states exempt food
- One levies the full rate
- Four levy reduced rates or allow locals to tax
- Four levy full rate but w/ caveats

# Tax Treatment of Food for Home Consumption, U.S.




Sources: Center on Budget and Policy Priorities and Federation of Tax Administrators

# Tax Treatment of Food for Home Consumption, Streamlined States


Sources: Streamlined Sales Tax Governing Board, Inc. and Federation of Tax Administrators

# Past Recommendations on the Taxation of Food

| | |
|---|---|
| 1951 | Eliminate food exemption |
| 1984 | Provide tax credit to low-income families |
| 1991 | Maintain tax on food |
| 2008 | Eliminate food exemption |

# Conclusion

- Questions?
- Comments?
- Concerns?