

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 1221

Short Title: Local Tax Option Menu.

(Public)

Sponsors: Representative Hurley.

Referred to: Finance.

May 10, 1991

1 A BILL TO BE ENTITLED  
2 AN ACT TO PROVIDE A MENU OF LOCAL OPTION TAXES FOR CITIES AND  
3 COUNTIES.

4 The General Assembly of North Carolina enacts:

5 Section 1. Subchapter VIII of Chapter 105 of the General Statutes is  
6 amended by adding a new Article to read:

7 **"ARTICLE 43.**

8 **"LOCAL MEALS TAXES.**

9 **"§ 105-515. Short title.**

10 This Article shall be known as the Local Meals Tax Act.

11 **"§ 105-516. Purpose; scope.**

12 This Article gives the counties and cities of this State an opportunity to obtain an  
13 added source of revenue. This Article applies only to counties, and the cities in those  
14 counties, that levy the one percent (1%) local sales and use tax under Article 39 of this  
15 Chapter or under Chapter 1096 of the 1967 Session Laws, the one-half percent (1/2%)  
16 local sales and use tax under Article 40 of this Chapter, and the one-half percent (1/2%)  
17 local sales and use tax under Article 42 of this Chapter.

18 **"§ 105-517. Definitions.**

19 The following definitions apply in this Article:

20 (1) City. Defined in G.S. 153A-1.

21 (2) City council. The governing body of a city.

22 (3) Meals tax. A tax on the sales price of prepared food and beverages  
23 sold by a retailer, other than a sales tax levied under Article 5, 39, 40,

1                   41, or 42 of this Chapter or under Chapter 1096 of the 1967 Session  
2                   Laws.

3           (4)   Net proceeds. Gross proceeds less taxes refunded, the cost to the State  
4           of collecting and administering the tax in the taxing county or city, and  
5           other deductions properly charged to the taxing county or city.

6           (5)   Prepared food and beverages. Meals, food, and beverages which a  
7           retailer has added value to or whose state has been altered (other than  
8           solely by cooling) by preparing, combining, dividing, heating, or  
9           serving, in order to make them available for immediate consumption.

10          (6)   Secretary. The Secretary of Revenue.

11   **"§ 105-518. County meals tax.**

12          (a)   Levy. The board of commissioners of a county may by resolution, after not  
13          less than 10 days' public notice and after a public hearing held pursuant thereto, levy a  
14          meals tax of up to one percent (1%) on the sales price of prepared food and beverages  
15          sold in the county at retail by a retailer subject to sales tax under G.S. 105-164.4(a)(1).  
16          This meals tax is in addition to any State or local sales tax. Immediately after adopting  
17          a resolution to levy a tax under this section, the board of commissioners shall send a  
18          certified copy of the resolution, and certified copies of any city resolutions required by  
19          subsection (c), to the Secretary. The Secretary shall then administer the tax in the  
20          county as authorized in this Article.

21          A county may, by resolution, repeal or reduce the rate of a tax levied under this  
22          section. Repeal or reduction of a tax levied under this section shall become effective on  
23          the first day of a month and may not become effective until the end of the fiscal year in  
24          which the repeal or reduction resolution was adopted. Immediately after adopting a  
25          resolution repealing or reducing the rate of the tax, the board of commissioners shall  
26          send a certified copy of the resolution to the Secretary.

27          (b)   Effect on Local Meals Tax Acts. If a county levies a meals tax under this  
28          section, that county may not levy an additional meals tax under a local act. This section  
29          does not repeal any local act authorizing a county to levy a meals tax. However, levy of  
30          a meals tax by a county under this section automatically removes the county's authority  
31          to levy a meals tax under a local act. Levy of a tax under this section does not abolish  
32          any board, commission, or agency created pursuant to a local meals tax act, but the  
33          county may, by resolution, abolish that board, commission, or agency and provide for  
34          the disposition of its assets and liabilities. The county may appropriate funds raised  
35          from a levy under this section to a board, commission, or agency created pursuant to a  
36          local meals tax act for the purposes authorized by the local act. Repeal of a meals tax  
37          levied under this section does not revive the county's authority to levy a meals tax under  
38          a local act.

39          (c)   Effective Date of Levy. Collection of the tax, and liability therefor, shall  
40          begin and continue only on and after the first day of a calendar month set by the board  
41          of commissioners in the resolution levying the tax. In a county in which there is no city  
42          meals tax, the effective date of a tax levied under this section may not be earlier than the  
43          first day of the third succeeding calendar month after the date the resolution is adopted.  
44          In a county in which there is a city meals tax, the effective date of a tax levied under this

1 section may not be earlier than the first day of the fiscal year beginning on or after the  
2 first day of the third succeeding calendar month after the resolution is adopted, unless  
3 the city councils of all the cities that have levied city meals taxes consent by resolution  
4 to an earlier effective date.

5 (d) Administration of Tax. Except as provided in this Article, administration,  
6 collection, distribution, and refund of the taxes levied under this Article shall be in  
7 accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of  
8 this Chapter to this Article, references to 'this Article' mean 'Article 43 of Chapter 105  
9 of the General Statutes.'

10 (e) Use of Proceeds. A county may use the proceeds of a tax levied under this  
11 Article only to promote travel and tourism in the county. Expenditures to promote  
12 travel and tourism may include capital expenditures that directly enhance the tourist  
13 attractions of the county.

14 **"§ 105-519. Exemptions.**

15 A tax levied under this Article does not apply to the following sales of prepared food  
16 and beverages:

- 17 (1) Prepared food and beverages served to residents in boarding houses  
18 and sold together on a periodic basis with rental of a sleeping room or  
19 lodging.
- 20 (2) Retail sales exempt from taxation under Article 39 of this Chapter.
- 21 (3) Retail sales through or by means of vending machines.
- 22 (4) Prepared food and beverages served by a business subject to the sales  
23 tax levied under G.S. 105-164.4(a)(3) if the charge for the prepared  
24 food or beverages is included in a single, nonitemized sales price  
25 together with the charge for rental of a room, lodging, or  
26 accommodation furnished by the business.
- 27 (5) Prepared food and beverages furnished without charge by an employer  
28 to an employee.
- 29 (6) Retail sales by grocers or by grocery sections of supermarkets or other  
30 diversified retail establishments other than sales of prepared food and  
31 beverages in the delicatessen or similar departments of the grocer or  
32 grocery section.

33 **"§ 105-520. City meals tax.**

34 (a) Levy. If the board of commissioners of a county where a city is located has  
35 not levied the meals tax authorized by G.S. 105-518 or has levied the tax at a rate less  
36 than one percent (1%) and if that county has not levied a meals tax under a local act, the  
37 city council may by ordinance, after not less than 10 days' public notice and after a  
38 public hearing held pursuant thereto, levy a meals tax of up to one percent (1%) on the  
39 sales price of prepared food and beverages sold in the city at retail by a retailer subject  
40 to sales tax under G.S. 105-164.4(a)(1), except that no levy under this section may cause  
41 the combined city and county rate to exceed one percent (1%) in any part of the city.

42 This meals tax is in addition to any State or local sales tax. Immediately after  
43 adopting an ordinance to levy a tax under this section, the city council shall send a

1 certified copy of the ordinance to the Secretary. The Secretary shall then administer the  
2 tax in the city as provided in this Article.

3 This tax may be repealed or reduced in rate in the same manner as a tax levied under  
4 G.S. 105-518. The scope, collection, and administration of the tax shall be as provided  
5 for a tax levied under that section, unless this section specifies otherwise. In applying  
6 the provisions of G.S. 105-518 to a tax levied by a city under this section, all references  
7 in G.S. 105-518 to a county or an official of that county shall be construed to mean the  
8 city and the city counterpart to the county official. The net proceeds of a tax levied  
9 under this section shall be distributed to the city levying the tax.

10 (b) Effect on Local Meals Tax Acts. If a city levies a meals tax under this  
11 section, that city may not levy an additional meals tax under a local act. This section  
12 does not repeal any local act authorizing a city to levy a meals tax. However, levy of a  
13 meals tax by a city under this section automatically removes the city's authority to levy  
14 a meals tax under a local act. Levy of a tax under this section does not abolish any  
15 board, commission, or agency created pursuant to a local meals tax act, but the city  
16 may, by resolution, abolish that board, commission, or agency and provide for the  
17 disposition of its assets and liabilities. The city may appropriate funds raised from a  
18 levy under this section to a board, commission, or agency created pursuant to a local  
19 meals tax act for the purposes authorized by the local act. Repeal of a meals tax levied  
20 under this section does not revive the city's authority to levy a meals tax under a local  
21 act.

22 (c) City Located in Multiple Counties. If a city is located in more than one  
23 county, the highest rate of meals tax levied by any of the counties in which the city is  
24 located determines, for the entire city, whether the city may levy a meals tax or the  
25 maximum rate at which it may levy. As an example, if City A is located in Counties B,  
26 C, and D, and County B levies a one-fourth percent (1/4%) tax, County C levies a one-  
27 half percent (1/2%) tax, and County D levies no tax, City A may levy a meals tax of no  
28 more than one-half percent (1/2%) throughout the city.

29 (d) Use of Proceeds. A city may use the proceeds of a tax levied under this  
30 Article only to promote travel and tourism in the city. Expenditures to promote travel  
31 and tourism may include capital expenditures that directly enhance the tourist  
32 attractions of the city.

33 **"§ 105-521. Effect of county meals tax on city meals tax.**

34 (a) City and County Tax Under This Article. A city may not levy a meals tax  
35 under this Article that would cause the county rate under this Article combined with the  
36 city rate to exceed one percent (1%) in any part of the city. If a city levies a meals tax  
37 under this Article, and the board of commissioners of a county where the city is located  
38 subsequently adopts a resolution levying a meals tax in that county under this Article,  
39 the city's authority to levy the meals tax is repealed as of the effective date of the county  
40 levy if the county levies at the rate of one percent (1%), and is limited to the difference  
41 between the county meals tax rate and one percent (1%) if the county levies at a rate of  
42 less than one percent (1%).

43 (b) City Tax Under Local Act; County Tax Under This Article. A city may not  
44 levy a meals tax under a local act if a county where any part of the city is located levies,

1 or formerly levied, a tax under this Article. If a city levies a meals tax under a local act,  
2 and the board of commissioners of a county where the city is located subsequently  
3 adopts a resolution levying a meals tax in that county under this Article, the city's  
4 authority to levy the meals tax under the local act is repealed as of the effective date of  
5 the county levy. Later repeal of the county meals tax does not revive the city's authority  
6 to levy a meals tax under the local act.

7 (c) City Tax Under This Article; County Tax Under Local Act. A city may not  
8 levy a meals tax under this Article if a county where any part of the city is located levies  
9 a meals tax under a local act. If a city levies a meals tax under this Article, and the  
10 board of commissioners of a county where the city is located subsequently adopts a  
11 resolution levying a meals tax in that county under a local act, the city's authority to  
12 levy the meals tax is repealed as of the effective date of the county levy.

13 (d) City and County Tax Under Local Act. The effect of a county meals tax  
14 levied under a local act upon a city meals tax levied under a local act is controlled by  
15 the provisions of the relevant local acts.

16 **"§ 105-522. Convention and visitors bureau.**

17 When a city or county adopts an ordinance or a resolution levying a tax under this  
18 Article, it shall also adopt a resolution creating a local convention and visitors bureau.  
19 The resolution shall provide for the membership of the bureau, including the members'  
20 qualifications and terms of office, and for the filling of vacancies on the bureau. The  
21 resolution shall provide that the membership of the bureau shall include at least one  
22 local restaurant operator. The city or county shall designate one member of the bureau  
23 as chair and shall determine the compensation, if any, to be paid to members of the  
24 bureau.

25 The bureau shall promote travel, tourism, and conventions in the city or county,  
26 sponsor tourist-related events and activities in the city or county, and finance tourist-  
27 related capital projects in the city or county.

28 **"§ 105-523. Savings clause.**

29 Repeal of a meals tax, or reduction of its rate, pursuant to this Article does not affect  
30 a liability for a tax that attached before the effective date of the repeal or reduction, nor  
31 does it affect a right to a refund of a tax that accrued before the effective date of the  
32 repeal or reduction. Repeal of a meals tax levied under this Article does not revive any  
33 local levy repealed due to the levy of a tax under this Article."

34 Sec. 2. Subchapter VIII of Chapter 105 of the General Statutes is amended  
35 by adding a new Article to read:

36 **"ARTICLE 44.**

37 **"LOCAL OCCUPANCY TAXES.**

38 **"§ 105-525. Short title.**

39 This Article shall be known as the Local Occupancy Tax Act.

40 **"§ 105-526. Purpose.**

41 This Article gives the counties and cities of this State an opportunity to obtain an  
42 added source of revenue, in light of the fact that persons occupying transient  
43 accommodations place special service burdens on local governments.

44 **"§ 105-527. Definitions.**

1       The following definitions apply in this Article:

- 2           (1) City. Defined in G.S. 153A-1.
- 3           (2) City council. The governing body of a city.
- 4           (3) Net proceeds. Gross proceeds less taxes refunded, the cost to the State
- 5           of collecting and administering the tax in the taxing county or city, and
- 6           other deductions properly charged to the taxing county or city.
- 7           (4) Occupancy tax. A tax on the gross receipts derived from the rental of
- 8           transient accommodations other than a sales tax levied under Articles
- 9           5, 39, 40, 41, or 42 of this Chapter or under Chapter 1096 of the 1967
- 10           Session Laws.
- 11          (5) Secretary. The Secretary of Revenue.

12 **"§ 105-528. County occupancy tax.**

13       (a) Levy. The board of commissioners of a county may by resolution, after not

14       less than 10 days' public notice and after a public hearing held pursuant thereto, levy an

15       occupancy tax of one percent (1%), two percent (2%), or three percent (3%) of the gross

16       receipts derived from the rental in that county of any room, lodging, or similar

17       accommodation subject to sales tax under G.S. 105-164.4(a)(3). This occupancy tax is

18       in addition to any State or local sales tax. Immediately after adopting a resolution to

19       levy a tax under this section, the board of commissioners shall send a certified copy of

20       the resolution, and certified copies of any city resolutions required by subsection (c), to

21       the Secretary. The Secretary shall then administer the tax in the county as authorized in

22       this Article.

23       (b) Effect on Local Occupancy Tax Acts. If a county levies an occupancy tax

24       under this section, that county may not levy an additional occupancy tax under a local

25       act. This section does not repeal any local act authorizing a county to levy an

26       occupancy tax. However, levy of an occupancy tax by a county under this section

27       automatically removes the county's authority to levy an occupancy tax under a local act.

28       Levy of a tax under this section does not abolish any board, commission, or agency

29       created pursuant to a local occupancy tax act, but the county may, by resolution, abolish

30       that board, commission, or agency and provide for the disposition of its assets and

31       liabilities. In addition, the county may appropriate funds raised from a levy under this

32       section to that board, commission, or agency for the purposes authorized by the local

33       act. Repeal of an occupancy tax levied under this section does not revive the county's

34       authority to levy an occupancy tax under a local act.

35       (c) Effective Date of Levy. Collection of the tax, and liability therefor, shall

36       begin and continue only on and after the first day of a calendar month set by the board

37       of commissioners in the resolution levying the tax. In a county in which there is no city

38       occupancy tax, the effective date of a tax levied under this section may not be earlier

39       than the first day of the second succeeding calendar month after the date the resolution

40       is adopted. In a county in which there is a city occupancy tax, the effective date of a tax

41       levied under this section may not be earlier than the first day of the fiscal year beginning

42       on or after the first day of the second succeeding calendar month after the resolution is

43       adopted, unless the city councils of all the cities that have levied city occupancy taxes

44       consent by resolution to an earlier effective date.

1       (d) Administration of Tax. Every operator of a business subject to the tax levied  
2 under this Article shall, on and after the effective date of the levy of the tax, collect the  
3 tax. This tax shall be collected as part of the charge for furnishing a taxable  
4 accommodation. The tax shall be stated and charged separately from the sales records,  
5 and shall be paid by the purchaser to the operator of the business as trustee for and on  
6 account of the county in which the tax is imposed. The tax shall be added to the sales  
7 price and shall be passed on to the purchaser instead of being borne by the operator of  
8 the business. Collection and administration of the tax shall be as provided for in G.S.  
9 105-469 and G.S. 105-474, except that the Secretary shall collect the tax and,  
10 notwithstanding G.S. 105-164.16(b), all taxpayers shall file a return on a monthly basis.  
11 Distribution of the tax shall be as provided in G.S. 105-472. The Secretary shall design,  
12 print, and furnish to all appropriate businesses and persons in each taxing county the  
13 necessary forms for filing returns and instructions to ensure the full collection of the tax.

14       An operator of a business who collects the occupancy tax levied under this Article  
15 may deduct from the amount timely remitted to the Secretary a discount of one percent  
16 (1%) of the amount collected as reimbursement for the expenses incurred in collecting  
17 the tax.

18       (e) Repeal or Reduction in Rate. A tax levied under this section may be repealed  
19 or reduced to a rate of two percent (2%) or one percent (1%) by a resolution adopted by  
20 the board of commissioners of the taxing county. Repeal or reduction of a tax levied  
21 under this section shall become effective on the first day of a month and may not  
22 become effective until the end of the fiscal year in which the repeal or reduction  
23 resolution was adopted. Immediately after adopting a resolution repealing the tax, the  
24 board of commissioners shall send a certified copy of the resolution to the Secretary.

25 **"§ 105-529. City occupancy tax.**

26       (a) Levy. If the board of commissioners of a county where a city is located has  
27 not levied the occupancy tax authorized by G.S. 105-528 or has levied the tax at a rate  
28 of one percent (1%) or two percent (2%), and if that county has not levied an occupancy  
29 tax under a local act, the city council may by ordinance, after not less than 10 days'  
30 public notice and after a public hearing held pursuant thereto, levy an occupancy tax  
31 within the city of one percent (1%), two percent (2%), or three percent (3%), except that  
32 no levy under this section may cause the combined city and county rate to exceed three  
33 percent (3%) in any part of the city.

34       This occupancy tax is in addition to any State or local sales tax. Immediately after  
35 adopting an ordinance to levy a tax under this section, the city council shall send a  
36 certified copy of the ordinance to the Secretary. The Secretary shall then administer the  
37 tax in the city as provided in this Article.

38       This tax shall apply to the same accommodations that are taxable under G.S. 105-  
39 528 and shall be collected and administered in the same manner as the tax authorized by  
40 that section, unless this section specifies otherwise. In applying the provisions of G.S.  
41 105-528 to a tax levied by a city under this section, all references in G.S. 105-528 to a  
42 county or an official of that county shall be construed to mean the city and the city  
43 counterpart to the county official. The net proceeds of a tax levied under this section  
44 shall be distributed to the city levying the tax.

1       (b) Effect on Local Occupancy Tax Acts. If a city levies an occupancy tax under  
2 this section, that city may not levy an additional occupancy tax under a local act. This  
3 section does not repeal any local act authorizing a city to levy an occupancy tax.  
4 However, levy of an occupancy tax by a city under this section automatically removes  
5 the city's authority to levy an occupancy tax under a local act. Levy of a tax under this  
6 section does not abolish any board, commission, or agency created pursuant to a local  
7 occupancy tax act, but the city may, by resolution, abolish that board, commission, or  
8 agency and provide for the disposition of its assets and liabilities. In addition, the city  
9 may appropriate funds raised from a levy under this section to that board, commission,  
10 or agency for the purposes authorized by the local act. Repeal of an occupancy tax  
11 under this section does not revive the city's authority to levy an occupancy tax under a  
12 local act.

13       (c) City Located in Multiple Counties. If a city is located in more than one  
14 county, the highest rate of occupancy tax levied by any of the counties in which the city  
15 is located determines, for the entire city, whether the city may levy an occupancy tax or  
16 the maximum rate at which it may levy. As an example, if City A is located in Counties  
17 B, C, and D, and County B levies a two percent (2%) tax, County C levies a one percent  
18 (1%) tax, and County D levies no tax, City A may levy an occupancy tax of no more  
19 than one percent (1%) throughout the city.

20       (d) Repeal or Reduction in Rate. A tax levied under this section may be repealed  
21 or reduced to a rate of two percent (2%) or one percent (1%) by a resolution adopted by  
22 the city council of the taxing city. Repeal or reduction of a tax levied under this section  
23 shall become effective on the first day of a month and may not become effective until  
24 the end of the fiscal year in which the repeal or reduction resolution was adopted.  
25 Immediately after adopting a resolution repealing the tax, the city council shall send a  
26 certified copy of the resolution to the Secretary.

27 **"§ 105-530. Effect of county occupancy tax on city occupancy tax.**

28       (a) City and County Tax Under This Article. A city may not levy an occupancy  
29 tax under this Article that would cause the county rate under this Article combined with  
30 the city rate to exceed three percent (3%) in any part of the city. If a city levies an  
31 occupancy tax under this Article, and the board of commissioners of a county where the  
32 city is located subsequently adopts a resolution levying an occupancy tax in that county  
33 under this Article, the city's authority to levy the occupancy tax is repealed as of the  
34 effective date of the county levy if the county levies at the rate of three percent (3%),  
35 and is limited to the difference between the county occupancy tax rate and three percent  
36 (3%) if the county levies at the rate of two percent (2%) or one percent (1%).

37       (b) City Tax Under Local Act; County Tax Under This Article. A city may not  
38 levy an occupancy tax under a local act if a county where any part of the city is located  
39 levies, or formerly levied, a tax under this Article. If a city levies an occupancy tax  
40 under a local act, and the board of commissioners of a county where the city is located  
41 subsequently adopts a resolution levying an occupancy tax in that county under this  
42 Article, the city's authority to levy the occupancy tax under the local act is repealed as  
43 of the effective date of the county levy. Later repeal of the county occupancy tax does  
44 not revive the city's authority to levy an occupancy tax under the local act.



1 (c) City Tax Under This Article; County Tax Under Local Act. A city may not  
2 levy an occupancy tax under this Article if a county where any part of the city is located  
3 levies an occupancy tax under a local act. If a city levies an occupancy tax under this  
4 Article, and the board of commissioners of a county where the city is located  
5 subsequently adopts a resolution levying an occupancy tax in that county under a local  
6 act, the city's authority to levy the occupancy tax is repealed as of the effective date of  
7 the county levy.

8 (d) City and County Tax Under Local Act. The effect of a county occupancy tax  
9 levied under a local act upon a city occupancy tax levied under a local act is controlled  
10 by the provisions of the relevant local acts.

11 **"§ 105-531. Savings clause.**

12 Repeal of an occupancy tax, or reduction of its rate, pursuant to this Article does not  
13 affect a liability for a tax that attached before the effective date of the repeal or  
14 reduction, nor does it affect a right to a refund of a tax that accrued before the effective  
15 date of the repeal or reduction. Repeal of an occupancy tax levied under this Article  
16 does not revive any local levy repealed due to the levy of a tax under this Article."

17 Sec. 3. Chapter 105 of the General Statutes is amended by adding a new  
18 Article to read:

19 **"ARTICLE 8F.**

20 **"LOCAL GOVERNMENT EXCISE STAMP TAX ON CONVEYANCES.**

21 **"§ 105-228.50. Purpose; scope.**

22 This Article gives the smaller counties of this State and the cities in those counties  
23 an opportunity to obtain an added source of revenue to meet their growing financial  
24 needs and allow them to reduce ad valorem property tax rates or avoid future rate  
25 increases. This Article applies only to counties with a population of less than 50,000,  
26 according to the most recent decennial federal census, and the cities in those counties,  
27 except that this Article does not apply to the counties of Camden, Chowan, Currituck,  
28 Dare, Pasquotank, Perquimans, and Washington or to the cities in those counties.

29 **"§ 105-228.51. Definitions.**

30 The following definitions apply in this Article:

31 (1) City. Defined in G.S. 153A-1.

32 (2) City council. The governing body of a city.

33 (3) Conveyance tax. A tax levied under this Article.

34 **"§ 105-228.52. County election on adoption of conveyance tax.**

35 The board of commissioners of a county may direct the county board of elections to  
36 conduct an advisory referendum on the question of whether a local conveyance tax at a  
37 rate of up to one percent (1%) will be levied in accordance with this Article. The  
38 election shall be held on a date jointly agreed upon by the two boards and shall be held  
39 in accordance with the procedures of G.S. 163.287.

40 The form of the question to be presented on a ballot for a special election concerning  
41 the levy of the tax authorized by this Article shall be: 'FOR a local tax on instruments  
42 conveying real property at a rate of up to one percent (1%) of the value of the property  
43 conveyed' 'AGAINST a local tax on instruments conveying real property at a rate of up  
44 to one percent (1%) of the value of the property conveyed.'

1 **"§ 105-228.53. County conveyance tax.**

2 (a) Levy. If the majority of those voting in a referendum held pursuant to G.S.  
3 105-228.52 vote for the levy of a local conveyance tax, the board of commissioners of a  
4 county may, by resolution, levy an excise tax on instruments conveying interests in real  
5 property located in that county at a rate not to exceed one percent (1%) of the  
6 consideration or value of the interest conveyed, including the value of any lien or  
7 encumbrance remaining on the property at the time of sale. This tax is in addition to the  
8 tax levied by Article 8E of this Chapter. Upon adoption of the resolution, the board of  
9 commissioners shall send a certified copy to the register of deeds of the county.

10 (b) Effective Date of Levy. Collection of the tax, and liability therefor, shall  
11 begin and continue only on and after the first day of a calendar month set by the board  
12 of county commissioners in the resolution levying the tax. In a county in which there is  
13 no city conveyance tax, the effective date of a tax levied under this Article may not be  
14 earlier than the first day of the second succeeding calendar month after the date the  
15 resolution is adopted. In a county in which there is a city conveyance tax, the effective  
16 date of a tax levied under this Article may not be earlier than the first day of the fiscal  
17 year beginning on or after the first day of the second succeeding calendar month after  
18 the resolution is adopted, unless the city councils of all the cities that have levied city  
19 conveyance taxes consent by resolution to an earlier effective date.

20 (c) Scope. A tax levied under this Article does not apply to transfers exempt  
21 pursuant to G.S. 105-228.28 or G.S. 105-228.29 from the tax levied by Article 8E of  
22 this Chapter. A tax levied under this Article applies to transfers of interests in real  
23 property located within the taxing county, except that if the property is located in two or  
24 more counties, a transfer of an interest in the property is taxable only by the county in  
25 which the greater part of the property, with respect to value, lies.

26 (d) Administration. A tax levied under this Article is payable by the transferor of  
27 the interest. The provisions of G.S. 105-228.31 through G.S. 105-228.36 apply to a tax  
28 levied under this Article.

29 (e) Distribution and Use of Proceeds. Taxes collected under this section shall be  
30 placed in a special fund. The finance officer of the county shall, on a quarterly basis,  
31 distribute to the general fund of the county and to the cities in the county the proceeds  
32 of the tax collected in that county under this Article, in accordance with the method by  
33 which the one percent (1%) sales and use taxes levied in that county pursuant to Article  
34 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. Any  
35 interest accruing to the special fund shall be transferred annually to the general fund of  
36 the county in consideration of its expenses in administering the tax and distributing the  
37 funds. Taxes collected under this Article may be used for any purpose permitted by  
38 law.

39 (f) Repeal or Reduction in Rate. A county may, by resolution, repeal or reduce  
40 the rate of a tax levied under this Article. Repeal or reduction of the tax shall become  
41 effective on the first day of a month and may not become effective until the end of the  
42 fiscal year in which the repeal or reduction resolution was adopted.

43 **"§ 105-228.54. City election on adoption of conveyance tax.**

1 If the board of commissioners of a county where a city is located has not levied the  
2 conveyance tax authorized by G.S. 105-228.53, or has levied the tax at a rate less than  
3 one percent (1%), the city council may direct the county board of elections to conduct  
4 an advisory referendum in the city on the question of whether a local conveyance tax at  
5 a rate of up to one percent (1%) will be levied in accordance with this Article. The  
6 election shall be held on a date jointly agreed upon by the board of elections and the city  
7 council and shall be held in accordance with the procedures of G.S. 163-287.

8 The form of the question to be presented on a ballot for a special election concerning  
9 the levy of the tax authorized by this Article shall be: 'FOR a local tax on instruments  
10 conveying real property at a rate of up to one percent (1%) of the value of the property  
11 conveyed' 'AGAINST a local tax on instruments conveying real property at a rate of up  
12 to one percent (1%) of the value of the property conveyed.'

13 **"§ 105-228.55. City conveyance tax.**

14 (a) Levy. If the majority of those voting in a referendum held pursuant to G.S.  
15 105-228.54 vote for the levy of a local conveyance tax, the city council may, by  
16 ordinance, levy an excise tax on instruments conveying interests in real property located  
17 in that city at a rate not to exceed one percent (1%) of the consideration or value of the  
18 interest conveyed, including the value of any lien or encumbrance remaining on the  
19 property at the time of sale. No conveyance tax may be levied under this section at a  
20 rate that would cause the combined city and county rate to exceed one percent (1%).

21 This tax shall apply to the same transfers that are taxable under G.S. 105-228.53, and  
22 shall be collected and administered in the same manner as the tax authorized by that  
23 section. In applying the provisions of G.S. 105-228.53 to a tax levied by a city under  
24 this section, however, all references to a county or the board of commissioners of a  
25 county shall be construed to mean the city and the city council.

26 This tax is in addition to the tax levied by Article 8E of this Chapter. Upon adoption  
27 of the ordinance, the city council shall send a certified copy to the register of deeds of  
28 each county in which the city is located.

29 (b) City Located in Multiple Counties. If a city is located in more than one  
30 county, the highest rate of conveyance tax levied by any of the counties in which the  
31 city is located determines, for the entire city, whether the city may levy a conveyance  
32 tax or the maximum rate at which it may levy. As an example, if City A is located in  
33 Counties B, C, and D, and County B levies a one-half percent (1/2%) tax, County C  
34 levies a one-fourth percent (1/4%) tax, and County D levies no tax, City A may levy a  
35 conveyance tax of no more than one-half percent (1/2%) throughout the city.

36 (c) Distribution of Proceeds. Each county in which a taxing city is located shall  
37 distribute to the city the net proceeds of a tax levied under this section. 'Net proceeds'  
38 means gross proceeds less taxes refunded, the cost to the county of collecting and  
39 administering the tax, and other deductions properly charged to the taxing city.

40 (d) Repeal or Reduction in Rate. A city may, by resolution, repeal or reduce the  
41 rate of a tax levied under this Article. Repeal or reduction of the tax shall become  
42 effective on the first day of a month and may not become effective until the end of the  
43 fiscal year in which the repeal or reduction resolution was adopted.

44 **"§ 105-228.56. Effect of county conveyance tax on city conveyance tax.**

1 A city may not levy a conveyance tax under this Article that would cause the  
2 combined county and city rate under this Article to exceed one percent (1%) in any part  
3 of the city. If a city levies a conveyance tax under this Article, and the county board of  
4 commissioners for any territory where the city is located subsequently adopts a  
5 resolution levying a conveyance tax in that county under this Article, the city's authority  
6 to levy the conveyance tax is repealed as of the effective date of the county levy if the  
7 county levies at the rate of one percent (1%), and is limited to the difference between  
8 the county conveyance tax rate and one percent (1%) if the county levies at a rate of less  
9 than one percent (1%).

10 **"§ 105-228.57. Effect of county growth on conveyance tax.**

11 If a county or a city located in the county levies a conveyance tax under this Article  
12 and, according to a subsequent decennial federal census, the population of the county  
13 increases to 50,000 or more, the authority of the county and the cities located in the  
14 county to levy a conveyance tax under this Article expires on the last day of the fiscal  
15 year during which the federal census results become final.

16 **"§ 105-228.58. Savings clause.**

17 Repeal of a conveyance tax, or reduction of its rate, under this Article does not affect  
18 a liability for a tax that attached before the effective date of the repeal or reduction, nor  
19 does it affect a right to a refund of a tax that accrued before the effective date of the  
20 repeal or reduction."

21 Sec. 4. G.S. 105-37.1, as amended by Chapter 45 of the 1991 Session Laws,  
22 reads as rewritten:

23 **"§ 105-37.1. Amusements – Forms of amusement not otherwise ~~taxed.~~ taxed – State**  
24 **tax.**

25 (a) Every person, firm, or corporation engaged in the business of giving, offering  
26 or managing any form of entertainment or amusement not otherwise taxed or  
27 specifically exempted in this Article, for which an admission is charged, shall pay an  
28 annual license tax of fifty dollars (\$50.00) for each room, hall, tent or other place where  
29 such admission charges are made.

30 In addition to the license tax levied above, such person, firm, or corporation shall  
31 pay an additional tax upon the gross receipts of such business at the rate of three percent  
32 (3%). Reports shall be made to the Secretary of Revenue, in such form as he may  
33 prescribe, within the first 10 days of each month covering all such gross receipts for the  
34 previous month, and the additional tax herein levied shall be paid monthly at the time  
35 such reports are made. The annual license tax herein levied shall be treated as an  
36 advance payment of the tax upon gross receipts herein levied, and the annual license tax  
37 shall be applied as a credit upon or advance payment of the gross receipts tax.

38 Every person, firm, or corporation giving, offering, or managing any dance or  
39 athletic contest of any kind, except high school and elementary school athletic contests,  
40 for which an admission fee in excess of fifty cents (50¢) is charged, shall pay an annual  
41 license tax of fifty dollars (\$50.00) for each location where such charges are made, and,  
42 in addition, a tax upon the gross receipts derived from admission charges at the rate of  
43 three percent (3%). The additional tax upon gross receipts shall be levied and collected

1 in accordance with such regulations as may be made by the Secretary of Revenue. No  
2 tax shall be levied on admission fees for high school and elementary school contests.

3 Dances and other amusements actually promoted and managed by civic  
4 organizations and private and public secondary schools, shall not be subject to the  
5 license tax imposed by this section and the first one thousand dollars (\$1,000) of gross  
6 receipts derived from such events shall be exempt from the gross receipts tax herein  
7 levied when the entire proceeds of such dances or other amusements are used  
8 exclusively for the school or civic and charitable purposes of such organizations and not  
9 to defray the expenses of the organization conducting such dance or amusement. The  
10 mere sponsorship of dance or other amusement by such a school, civic, or fraternal  
11 organization shall not be deemed to exempt such dance or other amusement as provided  
12 in this paragraph, but the exemption shall apply only when the dance or amusement is  
13 actually managed and conducted by the school, civic, or fraternal organization and the  
14 proceeds are used as herein before required.

15 Dances and other amusements promoted and managed by a qualifying corporation  
16 that operates a center for the performing and visual arts are exempt from the license tax  
17 and the gross receipts tax imposed under this section if the dance or other amusement is  
18 held at the center. "Qualifying corporation" means a corporation that is exempt from  
19 income tax under G.S. 105-130.11(a)(3). "Center for the performing and visual arts"  
20 means a facility, having a fixed location, that provides space for dramatic performances,  
21 studios, classrooms and similar accommodations to organized arts groups and individual  
22 artists. This exemption shall not apply to athletic events.

23 The license and gross receipts taxes imposed by this section do not apply to a  
24 person, firm, or corporation that is exempt from income tax under Article 4 of this  
25 Chapter and is engaged in the business of operating a teen center. A "teen center" is a  
26 fixed facility whose primary purpose is to provide recreational activities, dramatic  
27 performances, dances, and other amusements exclusively for teenagers.

28 ~~(b) Counties shall not levy any license tax on the business taxed under this~~  
29 ~~section, but cities and towns may levy a license tax not in excess of one half the base tax~~  
30 ~~levied herein. Counties, cities, and towns may levy a license tax on the business taxed~~  
31 ~~under this section only as provided in G.S. 105-37.2.~~

32 (c) No tax shall be collected pursuant to this section with respect to  
33 entertainments or amusements offered or given on the Cherokee Indian reservation  
34 when the person, firm or corporation giving, offering or managing such entertainment or  
35 amusement is authorized to do business on the reservation and pays the tribal gross  
36 receipts levy to the tribal council.

37 (d) It is not the purpose of this Article to discourage agricultural fairs in the State,  
38 and to further this cause, no carnival company taxable under this section may play a  
39 "still date" in any county where there is a regularly advertised agricultural fair, 30 days  
40 prior to the dates of the fair. This subsection does not restrict the date on which a fair or  
41 tobacco festival may be held if (i) it is held by a veteran's organization or post chartered  
42 by Congress or organized and operated on a statewide or nationwide basis and (ii) the  
43 organization or post has held the fair or festival annually since before July 1, 1988."

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

3 **"§ 105-37.2. Amusements – Forms of amusement not otherwise taxed – Local tax.**

4       (a) Definitions. The following definitions apply in this section:

5           (1) Admissions tax. A tax levied under this section on the gross receipts  
6 derived from the business of offering entertainment or amusement for  
7 which an admission is charged.

8           (2) City. Defined in G.S. 153A-1.

9           (3) City council. The governing body of a city.

10          (4) Net proceeds. Gross proceeds less taxes refunded, the cost to the State  
11 of collecting and administering the tax for the taxing county or city,  
12 and other deductions properly charged to the taxing county or city.

13          (5) Secretary. The Secretary of Revenue.

14       (b) Levy of County Admissions Tax. The board of commissioners of a county  
15 may by resolution, after not less than 10 days' public notice and after a public hearing  
16 held pursuant thereto, levy a tax of up to two percent (2%) of the gross receipts derived  
17 from the business of offering in the county entertainment or amusement for which an  
18 admission is charged. This tax is in addition to the tax levied by G.S. 105-37.1 and  
19 applies only to gross receipts taxable by the State under G.S. 105-37.1. Upon adoption  
20 of a resolution levying the tax, the board of county commissioners shall send a certified  
21 copy to the Secretary. The Secretary shall then administer the tax as provided in this  
22 section.

23       A county may, by resolution, repeal or reduce the rate of a tax levied under this  
24 section. Repeal or reduction of the tax shall become effective on the first day of a  
25 month and may not become effective until the end of the fiscal year in which the repeal  
26 or reduction resolution was adopted. Upon adoption of a resolution repealing or  
27 reducing the tax, the board of county commissioners shall send a certified copy to the  
28 Secretary.

29       (c) Effective Date of County Levy. Collection of the tax, and liability therefor,  
30 shall begin and continue only on and after the first day of a calendar month set by the  
31 board of county commissioners in the resolution levying the tax. In a county in which  
32 there is no city admissions tax, the effective date of a tax levied under this section may  
33 not be earlier than the first day of the second succeeding calendar month after the date  
34 the resolution is adopted. In a county in which there is a city admissions tax, the  
35 effective date of a tax levied under this section may not be earlier than the first day of  
36 the fiscal year beginning on or after the first day of the second succeeding calendar  
37 month after the resolution is adopted, unless the city councils of all the cities that have  
38 levied city admissions taxes consent by resolution to an earlier effective date.

39       (d) Administration of County Tax; Distribution of Proceeds. The Secretary shall  
40 administer and collect an admissions tax levied under this section. The Secretary may  
41 adopt rules as necessary to implement this section. The Secretary shall design, print,  
42 and furnish to all appropriate businesses in each taxing county the necessary forms for  
43 filing returns and instructions to ensure the full collection of the tax.

1       The Secretary shall, on a quarterly basis, distribute to each taxing county and to the  
2 cities in the county the net proceeds of the tax collected in that county under this  
3 section. The amount distributed shall be divided among the taxing county and the cities  
4 in the county in accordance with the method by which the one percent (1%) sales and  
5 use taxes levied in that county pursuant to Article 39 of this Chapter or Chapter 1096 of  
6 the 1967 Session Laws are distributed.

7       (e) City Admissions Tax. If the board of commissioners of a county where a city  
8 is located has not levied the admissions tax authorized by subsection (b) or has levied  
9 the tax at a rate less than two percent (2%), the city council may, by ordinance, levy a  
10 tax of up to two percent (2%) of the gross receipts derived from the business of offering  
11 in the city entertainment or amusement for which an admission is charged. No  
12 admissions tax may be levied under this section at a rate that would cause the combined  
13 city and county rate to exceed two percent (2%). Collection of the tax, and liability  
14 therefor, shall begin and continue only on and after the first day of a calendar month set  
15 by the city council in the ordinance levying the tax, which may not be earlier than the  
16 first day of the second succeeding calendar month after the date the ordinance is  
17 adopted.

18       This tax shall apply to the same gross receipts that are taxable under subsection (b),  
19 and shall be collected and administered in the same manner as the tax authorized by that  
20 subsection. The Secretary shall, on a quarterly basis, distribute to each taxing city the  
21 net proceeds of a tax levied under this subsection.

22       This tax is in addition to the tax levied by G.S. 105-37.1. Upon adoption of an  
23 ordinance levying the tax, the city council shall send a certified copy to the Secretary.  
24 The Secretary shall then administer the tax as provided in this section.

25       A city may, by resolution, repeal or reduce the rate of a tax levied under this section.  
26 Repeal or reduction of the tax shall become effective on the first day of a month and  
27 may not become effective until the end of the fiscal year in which the repeal or  
28 reduction resolution was adopted. Upon adoption of a resolution repealing or reducing  
29 the tax, the city council shall send a certified copy to the Secretary.

30       If a city is located in more than one county, the highest rate of admissions tax levied  
31 by any of the counties in which the city is located determines, for the entire city,  
32 whether the city may levy an admissions tax or the maximum rate at which it may levy.  
33 As an example, if City A is located in Counties B, C, and D, and County B levies a one  
34 percent (1%) tax, County C levies a one-half percent (1/2%) tax, and County D levies  
35 no tax, City A may levy an admissions tax of no more than one percent (1%) throughout  
36 the city.

37       (f) Effect of County Admissions Tax on City Admissions Tax. A city may not  
38 levy an admissions tax under this section that would cause the combined county and city  
39 rate under this section to exceed two percent (2%) in any part of the city. If a city levies  
40 an admissions tax under this section, and the board of commissioners for any territory  
41 where the city is located subsequently adopts a resolution levying an admissions tax in  
42 that county under this section, the city's authority to levy the admissions tax is repealed  
43 as of the effective date of the county levy if the county levies at the rate of two percent

1 (2%), and is limited to the difference between the county admissions tax rate and two  
2 percent (2%) if the county levies at a rate of less than two percent (2%).

3 (g) Savings Clause. Repeal of an admissions tax, or reduction of its rate, under  
4 this section does not affect a liability for a tax that attached before the effective date of  
5 the repeal or reduction, nor does it affect a right to a refund of a tax that accrued before  
6 the effective date of the repeal or reduction."

7           Sec. 6. This act becomes effective August 1, 1991, except that G.S. 105-  
8 37.2(e), 105-228.55, 105-520, and 105-529 become effective November 1, 1991.