

NORTH CAROLINA GENERAL ASSEMBLY
LEGISLATIVE FISCAL NOTE

BILL NUMBER: Senate Bill 1132 (First Edition)

SHORT TITLE: Exempt Bakery Items from Sales Tax.

SPONSOR(S): Senator Kinnaird

FISCAL IMPACT					
	Yes (X)	No ()	No Estimate Available ()		
	(\$ millions)				
	<u>FY 2004-05</u>	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>
REVENUES	(2.1)	(5.0)	(5.0)	(5.0)	(5.0)
PRINCIPAL DEPARTMENT(S) & PROGRAM(S) AFFECTED: North Carolina Department of Revenue, Sales Tax Division.					
EFFECTIVE DATE: January 1, 2005 and applies to sales made on or after that date.					

BILL SUMMARY: Under current law, “prepared food” is subject to both state and local sales tax, while “food” is subject to only a 2% local tax. Certain bakery items fall within the definition of "prepared food" if they are sold in a heated state, heated by the retailer, or if the item consists of two or more foods mixed or combined by the retailer for sale as a single item. This legislation effectively excludes bakery items from the state sales tax base, if the bakery item is sold without eating utensils provided by the retailer.

ASSUMPTIONS AND METHODOLOGY: In 2001, the General Assembly, in an attempt to conform to the requirements of the Streamlined Sales Tax Project, redefined food and created a new category of food – prepared food. In 2003, the General Assembly determined that all prepared food is taxable by the state. At that time, Fiscal Research assumed, based on the definition in the bill, that much of the bread and other items sold in a bakery or in the bakery portion of a grocery or discount store would be considered food, not prepared food, and would continue to be exempt. However, retailers believe the definition related to this category is unclear. As a result, some retailers have been applying state tax to these items while others have not. The legislation clarifies that bakery items are exempt when they are sold without utensils.

In 2002-03 (prior to the change in legislation) the Department collected \$3.6 million in sales taxes from businesses that identified themselves as bakeries. Examples of bakeries would include Krispy Kreme, Bruggers, Chesapeake Bay Bagels, and Dewey's Bakery, to name a few. This \$3.6 million is in addition to taxes levied on bakery items sold in grocery or discount stores, where sales of bakery goods are likely to be substantial. As such, an estimate of \$5.0 million is used to represent the revenue loss.

SOURCES OF DATA: North Carolina Department of Revenue.

FISCAL RESEARCH DIVISION: (919) 733-4910

PREPARED BY: Linda Struyk Millsaps

APPROVED BY: James D. Johnson, Director
Fiscal Research Division



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