

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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SENATE DRS85024-LY-73 (2/7)

Short Title: LEA Sales Tax Refund and Exemption. (Public)

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Sponsors: Senators Hoyle, Hartsell and Swindell.

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Referred to:

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A BILL TO BE ENTITLED

AN ACT ALLOWING A SALES AND USE TAX EXEMPTION FOR LOCAL  
SCHOOL ADMINISTRATIVE UNITS AND REENACTING THE SALES AND  
USE TAX REFUND FOR LOCAL SCHOOL ADMINISTRATIVE UNITS.

The General Assembly of North Carolina enacts:

**SECTION 1.** G.S. 105-164.13 is amended by adding a new subdivision to  
read:

"§ **105-164.13. Retail sales and use tax.**

The sale at retail and the use, storage, or consumption in this State of the following  
tangible personal property and services are specifically exempted from the tax imposed  
by this Article:

...

(54) Items subject to sales and use tax under G.S. 105-164.4, other than  
electricity, telecommunications service, and ancillary service, if all of  
the following conditions are met:

- a. The items are purchased by a local school administrative unit  
for its own use and in accordance with G.S. 105-164.29B.
- b. The items are purchased pursuant to a valid purchase order  
issued by the local school administrative unit that contains the  
exemption number of the unit and a description of the property  
purchased, or the items purchased are paid for with a check,  
electronic deposit, credit card, procurement card, or credit  
account of the local school administrative unit.
- c. For all purchases other than by a purchase order issued by the  
local school administrative unit, the unit must provide to or  
have on file with the retailer the unit's exemption number."

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

3 **"§ 105-164.29B. Local school administrative unit exemption process.**

4       (a) Application. – To be eligible for the exemption provided in  
5 G.S. 105-164.13(54), a local school administrative unit must obtain from the  
6 Department a sales tax exemption number. The application for exemption must be in the  
7 form required by the Secretary, be signed by the unit's finance officer, and contain any  
8 information required by the Secretary. The Secretary must assign a sales tax exemption  
9 number to a local school administrative unit that submits a proper application.

10       (b) Liability. – A local school administrative unit that does not use the items  
11 purchased with its exemption number must pay the tax that should have been paid on  
12 the items purchased, plus interest calculated from the date the tax would otherwise have  
13 been paid."

14           **SECTION 3.** G.S. 105-164.14(c)(2b) and (2c) are reenacted.

15           **SECTION 4.** G.S. 105-164.44H is repealed.

16           **SECTION 5.** Section 7.51(c) of S.L. 2005-276 reads as rewritten:

17       ~~"SECTION 7.51.(c) Subsection (b) of this section becomes effective July 1, 2006.~~  
18 ~~Notwithstanding the provisions of G.S. 105-164.44H, for the 2006-2007 fiscal year, the~~  
19 ~~amount transferred to the State Public School Fund each quarter shall equal one fourth~~  
20 ~~of the amount refunded under G.S. 105-164.4(c)(2b) and (2c) during the 2005-2006~~  
21 ~~fiscal year plus or minus the percentage of that amount by which the total collection of~~  
22 ~~State sales and use tax increased or decreased during the preceding fiscal year. The~~  
23 ~~remainder of this~~ This ~~section becomes effective July 1, 2005, and applies to sales made~~  
24 ~~on or after that date."~~

25           **SECTION 6.** G.S. 105-467(b) reads as rewritten:

26       (b) Exemptions and Refunds. – The State exemptions and exclusions contained  
27 in G.S. 105-164.13, the State sales and use tax holiday contained in G.S. 105-164.13C,  
28 and the State refund provisions contained in G.S. 105-164.14 apply to the local sales  
29 and use tax authorized to be levied and imposed under this Article. ~~Except as provided~~  
30 ~~in this subsection, a~~ taxing county may not allow an exemption, exclusion, or refund  
31 that is not allowed under the State sales and use tax. ~~A local school administrative unit~~  
32 ~~and a joint agency created by interlocal agreement among local school administrative~~  
33 ~~units pursuant to G.S. 160A-462 to jointly purchase food service related materials,~~  
34 ~~supplies, and equipment on their behalf is allowed an annual refund of sales and use~~  
35 ~~taxes paid by it under this Article on direct purchases of tangible personal property and~~  
36 ~~services, other than electricity, telecommunications service, and ancillary service. Sales~~  
37 ~~and use tax liability indirectly incurred by the entity on building materials, supplies,~~  
38 ~~fixtures, and equipment that become a part of or annexed to any building or structure~~  
39 ~~that is owned or leased by the entity and is being erected, altered, or repaired for use by~~  
40 ~~the entity is considered a sales or use tax liability incurred on direct purchases by the~~  
41 ~~entity for the purpose of this subsection. A request for a refund shall be in writing and~~  
42 ~~shall include any information and documentation required by the Secretary. A request~~  
43 ~~for a refund is due within six months after the end of the entity's fiscal year. Refunds~~  
44 ~~applied for more than three years after the due date are barred."~~

1           **SECTION 7.** Sections 1, 3, 4, and 6 of this act become effective July 1,  
2 2007, and apply to purchases made on or after that date. The remainder of this act is  
3 effective when it becomes law.