

# REPORT OF THE SALES & USE TAX AND INCOME TAX SUBCOMMITTEE

(Long, Hosey, Stavrinakis, Taylor & Crawford - Staff Contact: Jane Leneave)

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## HOUSE BILL 5208

### Sales Tax Exemption

#### Summary of Bill:

This bill amends the current sales tax exemption for unprepared food in section 12-36-2120(75) to specify that the exemption remains applicable to any foods that cannot be purchased with food coupons for a limited time due to a demonstration project pursuant to USDA regulations.

#### Estimated Fiscal Impact:

This bill will result in a minimal expenditure impact on DOR with just administrative updates and may not impact sales tax revenue because the impact of the waiver is uncertain. DOR has advised that it is currently conducting additional research before determining the applicability of sales tax on food items that are temporarily ineligible for SNAP, for each of the different state and local sales taxes, and how this would be administered by retailers.

However, if sales tax is applicable on these items, it's estimated that sales tax applied to purchases of candy, soda, energy drinks, and sweetened beverages would increase total state sales tax revenue by approximately \$56 million beginning in FY26/27.

#### Subcommittee Action/Explanation:

Passed favorably.

#### Full Committee Action/Explanation:

N/A

#### Other Notes/Comments:

- The Food Choice Program, as prescribed by the approved waiver from the USDA FNS, is effective for 2 years beginning August 31, 2026.
- This exemption is applicable for the 5% state sales tax, of which 4% is credited to the General Fund and 1% is credited to the EIA Fund. The additional 1% sales tax credited to the HEX Fund is also separately exempt from unprepared food that may be lawfully purchased with the USDA food coupons.
- Local sales tax exemptions on unprepared food are distinctly addressed in statute for each unique local option sales tax, and not all local option sales taxes exempt unprepared food. Therefore, the impact on local jurisdictions will depend on the local option sales taxes in effect for various entities.
- Of the \$56,380,000 that could be collected should these items be subject to sales tax, \$37,586,000 would be credited to the General Fund, \$9,397,000 to the EIA and \$9,397,000 to HEX.
- Similar bill - S.1004



# SOUTH CAROLINA REVENUE AND FISCAL AFFAIRS OFFICE

## STATEMENT OF ESTIMATED FISCAL IMPACT

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*This fiscal impact statement is produced in compliance with the South Carolina Code of Laws and House and Senate rules. The focus of the analysis is on governmental expenditure and revenue impacts and may not provide a comprehensive summary of the legislation.*

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<b>Bill Number:</b>	H. 5208	Introduced on February 18, 2026
<b>Subject:</b>	Sales Tax Exemption	
<b>Requestor:</b>	House Ways and Means	
<b>RFA Analyst(s):</b>	Daigle	
<b>Impact Date:</b>	March 6, 2026	

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### Fiscal Impact Summary

This bill amends the current sales tax exemption for unprepared food in Section 12-36-2120(75) to specify that the exemption remains applicable to any foods that cannot be purchased with food coupons for a limited time due to a demonstration project pursuant to the United States Department of Agriculture (USDA) regulations. Based on discussion with the Department of Social Services (DSS) and information published by the USDA, South Carolina has been granted approval by the Food and Nutrition Service (FNS) for a waiver for such a demonstration project for 2 years effective August 31, 2026, which would not allow certain candy, energy drinks, soft drinks, and sweetened beverages to be purchased with USDA food coupons. Because the sales tax exemption on unprepared foods is based on the foods that can be purchased with USDA food coupons, Revenue and Fiscal Affairs (RFA) anticipates the waiver will remove the sales tax exemption on those foods, though the Department of Revenue (DOR) has not made a final determination at this time.

This bill will result in a minimal expenditure impact for the Department of Revenue (DOR) to update forms, the department website, and perform system changes. DOR indicates that the changes can be administered with existing staff and appropriations.

This bill may not impact sales tax revenue because the impact of the waiver is uncertain. However, without the bill, if these foods are no longer exempt from sales tax, RFA estimates that sales tax on purchases of candy, soda, energy drinks, and sweetened beverages would increase total state sales tax revenue by approximately \$56,380,000 beginning in FY 2026-27. Of this amount, \$37,586,000 would be credited to the General Fund, \$9,397,000 would be credited to the Education Improvement Act Fund (EIA), and \$9,397,000 would be credited to the Homestead Exemption Fund (HEX). Additionally, local sales tax revenue would be up to approximately \$14,847,000 on these food items. However, local sales tax exemptions on unprepared food are distinctly addressed in statute for each unique local option sales tax, and not all local option sales taxes exempt unprepared food currently. Therefore, the impact on each local jurisdiction will depend on the local option sales taxes in effect for the various entities. The potential impact on state and local sales tax revenue without the bill may be subject to change pending DOR's final determination.

## Explanation of Fiscal Impact

**Introduced on February 18, 2026**

### **State Expenditure**

This bill amends the current sales and use tax exemption for unprepared food in Section 12-36-2120(75) to specify that the exemption remains applicable to any foods that cannot be purchased with food coupons for a limited time due to a demonstration project pursuant to USDA regulations. DOR anticipates that this bill will result in a minimal expenditure impact in order to update forms, the department website, and perform system changes. DOR indicates that the changes can be administered with existing staff and appropriations.

### **State Revenue**

This bill amends the current sales and use tax exemption for unprepared food in Section 12-36-2120(75) to specify that the exemption remains applicable to any foods that cannot be purchased with food coupons for a limited time due to a demonstration project pursuant to USDA regulations. Based on conversations with DSS and USDA publications, the Food Choice Program, as prescribed by the approved waiver from the USDA FNS is effective for 2 years beginning August 31, 2026. Therefore, this bill would require eligible food items exempt from sales tax currently to remain exempt in FY 2026-27 after the waiver is effective. Food items that are scheduled to become ineligible for purchase with food coupons include candy, soda, energy drinks, and sweetened beverages.<sup>1</sup>

Pursuant to 12-36-2120(75), the sales tax exemption on unprepared food includes food that may lawfully be purchased with USDA food coupons. This exemption is applicable for the 5 percent state sales tax, of which 4 percent is credited to the General Fund and 1 percent is credited to the EIA Fund. For information, the additional 1 percent sales tax credited to the HEX Fund is also separately exempt from unprepared food that may be lawfully purchased with the USDA food coupons pursuant to Section 12-36-1110, which is not addressed in this bill.

This bill may not impact sales tax revenue because the impact of the waiver is uncertain. DOR has advised that it is currently conducting additional research before making a determination on the applicability of sales tax on food items that are temporarily ineligible for SNAP for each of the different state and local sales taxes and how this would be administered by retailers. Therefore, the potential impact on sales tax revenue without the bill may be subject to change pending DOR's final determination. However, if sales tax is applicable on these items, RFA estimates that sales tax applied to purchases of candy, soda, energy drinks, and sweetened beverages would increase total state sales tax revenue by approximately \$56,380,000 beginning in FY 2026-27. Of this amount, \$37,586,000 would be credited to the General Fund, \$9,397,000 would be credited to the EIA, and \$9,397,000 would be credited to the HEX. The table below outlines the increase in fund revenue due to sales tax on purchases of soda, candy, sweetened beverages, and energy drinks.

<sup>1</sup> U.S. Department of Agriculture Food and Nutrition Service. *South Carolina SNAP Food Restriction Waiver*. Retrieved March 2, 2026. <https://www.fns.usda.gov/snap/waivers/foodrestriction/southcarolina>.

**Estimated Potential State Revenue from  
Sales Tax on Soda, Candy, Sweetened Beverages, and Energy Drinks without H. 5208  
(\$ in millions)**

Unprepared Food Exemption	Applicable Tax Rate	Total Estimated State Revenue Impact	Fund		
			Estimated General Fund Revenue Impact (4%)	Estimated EIA Revenue Impact (1%)	Estimated HEX Revenue Impact (1%)
Section 12-36-2120(75)	5%	\$47.0	\$37.6	\$9.4	NA
Section 12-36-1110	1%	\$9.4	NA	NA	\$9.4
Total	6%	\$56.4	\$37.6	\$9.4	\$9.4

NA – not applicable

The following is an explanation of the analysis utilized to estimate the impact of sales tax on candy, soda, energy drinks, and sweetened beverages.

Based on the 2023-2024 U.S. Bureau of Labor Statistics (BLS) Consumer Expenditure Survey (CE), consumer units in the South Region spent approximately \$5,445 on food at home annually.<sup>2</sup> The median household income in South Carolina in 2024 was \$76,780, or approximately 84 percent of the average income for consumer units in the South Region reported in the BLS CE of \$91,824.<sup>3</sup> Therefore, by applying an adjustment factor of 84 percent, we estimate that consumer units in South Carolina spend approximately \$4,553 on food at home annually. Based on the BLS CE, the average number of people reported in a consumer unit for the South Region was 2.4, and dividing South Carolina’s 2024 resident population of 5,478,831 by 2.4 yields approximately 2,282,846 consumer units in the state. Multiplying \$4,553 on food at home spending by 2,282,846 consumer units yields approximately \$10,393,610,728 spent on food at home by South Carolina residents.

Based on data and an analysis published by the USDA, we estimate that approximately 9 percent of food at home spending is attributed to candy, soda, energy drinks, and sweetened beverages.<sup>4,5</sup> Therefore, multiplying \$10,398,610,728 by 9 percent yields approximately \$939,656,000 in

<sup>2</sup> U.S. Bureau of Labor Statistics. *Table 1800. Region of Residence: Annual expenditure means, standard errors, and relative standard errors, Consumer Expenditure Surveys, 2023-24*. Retrieved March 2, 2026. <https://www.bls.gov/cex/tables.htm>.

<sup>3</sup> U.S. Census Bureau. *Resident Population in South Carolina [SCPOP]*. Retrieved from FRED. Retrieved March 2, 2026. <https://fred.stlouisfed.org/series/SCPOP>.

<sup>4</sup> U.S. Department of Agriculture Economic Research Service. *Food-at-Home Monthly Area Prices, 2012 to 2018*. Retrieved March 2, 2026. <https://www.ers.usda.gov/data-products/food-at-home-monthly-area-prices>.

<sup>5</sup> U.S. Department of Agriculture Food and Nutrition Service. *Foods Typically Purchased By Supplemental Nutrition Assistance Program (SNAP) Households, November 2016*. Retrieved March 2, 2026. <https://fns-prod.azureedge.us/sites/default/files/ops/SNAPFoodsTypicallyPurchased.pdf>.

spending on candy, soda, energy drinks, and sweetened beverages in the state. Applying the total state sales tax rate of 6 percent yields approximately \$56,380,000.

**Local Expenditure**

N/A

**Local Revenue**

Based on conversations with DOR, the department is currently conducting additional research in order to make a determination on the applicability of sales tax on food items that are temporarily ineligible for SNAP and how this would be administered by retailers.

For information, if candy, energy drinks, soda, and sweetened beverages are subject to local sales tax, based upon the analysis included under the State Revenue section, applying an average local tax rate of 1.58 percent to the estimated state spending on these items yields an increase in local sales tax revenue of approximately \$14,847,000. Local sales tax exemptions on unprepared food are distinctly addressed in statute for each unique local option sales tax, and not all local option sales taxes exempt unprepared food. Therefore, the impact on each local jurisdiction will depend on the local option sales taxes in effect for the various entities. The following table provides an overview of the various local option sales taxes and their associated unprepared food exemption as applicable.

**Local Option Sales Taxes - Exemption on Unprepared Food**

<b>Tax Name</b>	<b>Unprepared Food Exemption</b>	<b>S.C. Code of Laws Reference</b>
Local Option Sales Tax	No	Not Exempt
Local Option Capital Project Sales Tax	Yes	Section 4-10-350(B)
Local Option Education Capital Improvements Sales Tax	Yes	Section 4-10-435(B)
Local Option Transportation Sales Tax	Optional	Section 4-37-30(A)(9)
Local Tourism Development Fee	Yes	Section 4-10-940(C)
County Green Space Sales Tax	Yes	Section 4-10-1040(B)



Frank A. Rainwater, Executive Director

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**A BILL**

11 TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY AMENDING SECTION 12-36-2120,  
12 RELATING TO EXEMPTIONS FROM SALES TAX, SO AS TO PROVIDE THAT CERTAIN  
13 UNPREPARED FOODS, THAT MAY BE PURCHASED WITH FOOD COUPONS WHICH ARE  
14 EXEMPT FROM TAXES, ARE NOT LIMITED TO CERTAIN FEDERAL REGULATIONS.  
15

16 Be it enacted by the General Assembly of the State of South Carolina:

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18 SECTION 1. Section 12-36-2120(75) of the S.C. Code is amended to read:

19  
20 (75) unprepared food that lawfully may be purchased with United States Department of Agriculture  
21 food coupons, without regard to any demonstration project pursuant to United States Department of  
22 Agriculture regulations that would limit the use of food coupons on otherwise eligible items for a  
23 limited period of time. However, the exemption allowed by this item applies only to the state sales and  
24 use tax imposed pursuant to this chapter;

25  
26 SECTION 2. This act takes effect upon approval by the Governor.

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**South Carolina General Assembly**  
126th Session, 2025-2026

**H. 5208**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. B. Newton and Moss

Companion/Similar bill(s): 1004

Document Path: LC-0444DG26.docx

Introduced in the House on February 18, 2026

Currently residing in the House Committee on **Ways and Means**

Summary: Sales Tax Exemption

**HISTORY OF LEGISLATIVE ACTIONS**

<u>Date</u>	<u>Body</u>	<u>Action Description with journal page number</u>
2/18/2026	House	Introduced and read first time (House Journal-page 50)
2/18/2026	House	Referred to Committee on <b>Ways and Means</b> (House Journal-page 50)

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**VERSIONS OF THIS BILL**

02/18/2026