

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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HOUSE BILL 2377*

Short Title: Utility Tax Payment/Appropriate Local Share. (Public)

Sponsors: Representative Diamont.

Referred to: Finance.

June 6, 1990

A BILL TO BE ENTITLED

AN ACT TO ACCELERATE THE PAYMENT BY UTILITIES OF SALES TAXES
AND GROSS RECEIPTS TAXES AND TO CHANGE THE ACCOUNTING
METHOD THAT APPLIES TO REVENUE DISTRIBUTED TO LOCAL
GOVERNMENTS FROM CERTAIN TAXES LEVIED BY THE STATE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.16 reads as rewritten:

"§ 105-164.16. Report and payment of taxes.

(a) Payment. – Taxes levied under this Article are due when a return is required to be filed. Every taxpayer liable for the tax imposed by this Article shall, within the specified time after the end of the appropriate reporting period, submit a return to the Secretary, on a form prescribed by the Secretary, stating the taxpayer's gross sales for the reporting period, the amount and type of sales made in the period that are exempt from tax under G.S. 105- 164.13 or are elsewhere excluded from tax, the amount of tax due, and any other information required by the Secretary. Each return shall be accompanied by a payment to the Secretary for the amount of taxes shown to be due on the return and shall be signed by the taxpayer or his agent. Returns that do not contain the required information shall not be accepted. When an unacceptable return is submitted, the Secretary shall require a corrected return to be filed.

(b) General Reporting Periods. – Returns of taxpayers who are required by this subsection to report on a monthly or quarterly basis are due within 15 days after the end of each monthly or quarterly period. Returns of taxpayers who are required to report on a semimonthly basis are due within 10 days after the end of each semimonthly period.

1 A taxpayer who is consistently liable for less than twenty-five dollars (\$25.00) a
2 month in State and local sales and use taxes may, with the approval of the Secretary, file
3 a return on a quarterly basis. A taxpayer who is consistently liable for at least twenty
4 thousand dollars (\$20,000) a month in State and local sales and use taxes shall, when
5 directed to do so by the Secretary, file a return on a semimonthly basis. All other
6 taxpayers shall file a return on a monthly basis. Quarterly reporting periods end on the
7 last day of March, June, September, and December; monthly reporting periods end on
8 the last day of the month; and semimonthly reporting periods end on the 15th of each
9 month and the last day of each month.

10 The Secretary shall monitor the amount of tax remitted by a taxpayer and shall direct
11 a taxpayer who consistently remits at least twenty thousand dollars (\$20,000) each
12 month to file a return on a semimonthly basis. In determining the amount of tax due
13 from a taxpayer for a reporting period the Secretary shall consider the total amount due
14 from all places of business owned or operated by the same person as the amount due
15 from that person.

16 A taxpayer who is directed to remit sales and use taxes on a semimonthly basis but
17 who is unable to gather the information required to submit a complete return for either
18 the first reporting period or both the first and second semimonthly reporting periods
19 may, upon written authorization by the Secretary, file an estimated return for that first
20 reporting period or both periods on the basis prescribed by the Secretary. Once a
21 taxpayer is authorized to file an estimated return for the first period or both periods, the
22 taxpayer may continue to file an estimated return for the first or both periods until the
23 Secretary, by written notification, revokes the taxpayer's authorization to do so. When
24 filing a return for the second semimonthly reporting period, a taxpayer who files an
25 estimated return for the first period but not both periods shall remit the amount of tax
26 due for both the first and second reporting periods, less the amount he remitted with his
27 estimated return.

28 A taxpayer who files an estimated return for both periods is considered to have been
29 granted an extension for both the first and second reporting periods. Notwithstanding
30 G.S. 105-164.19, if a taxpayer who files an estimated return for both periods files a
31 reconciling return for those periods within ten days of the due date of the return for the
32 second period and any underpayment of estimated taxes remitted with the reconciling
33 return is less than ten percent (10%) of the amount of taxes due for both the first and
34 second reporting periods, no interest shall be charged. Otherwise, a taxpayer who files
35 an estimated return for both periods shall be charged interest at the statutory rate from
36 the due date of the return for the first reporting period to the date the reconciling return
37 is filed.

38 (c) Sales Tax on Utility Services. – Taxes levied under G.S. 105-164.4(4a) and
39 G.S. 105-164.4(4c) are due and payable ~~quarterly~~ monthly on or before the ~~30th~~ 25th day
40 following the end of the ~~calendar quarter~~ month in which the tax accrues."

41 Sec. 2. G.S. 105-164.21A reads as rewritten:

42 "**§ 105-164.21A. Deduction for municipalities that sell electric power.**

43 A municipality that pays the retail sales tax imposed by this Article on electricity
44 may deduct from the amount of tax payable by the municipality an amount equal to

1 three percent (3%) of the difference between its gross receipts from sales of electricity
2 for the preceding ~~quarter-reporting period~~ and the amount paid by the municipality for
3 purchased power and related services during that ~~quarter-reporting period~~."

4 Sec. 3. Notwithstanding G.S. 105-164.16(c), a utility that would otherwise
5 remit sales taxes that accrued in April 1990 and May 1990 within 30 days after June 30,
6 1990, shall remit the sales taxes that accrued during April and May to the Secretary of
7 Revenue by June 25, 1990, and shall remit sales taxes that accrue in June 1990 to the
8 Secretary of Revenue by July 25. When remitting these taxes, a municipality may
9 deduct the amount allowable under G.S. 105-164.21A for the period for which taxes are
10 remitted.

11 Sec. 4. G.S. 105-116 reads as rewritten:

12 "**§ 105-116. Franchise or privilege tax on electric light, power, gas, water, sewerage,**
13 **and other similar public service companies not otherwise taxed. power,**
14 **natural gas, water, and sewerage companies.**

15 (a) Every person, firm or corporation, domestic or foreign, other than municipal
16 corporations, engaged in the business of furnishing electricity, electric lights, current,
17 power or piped gas, or owning and/or operating a water system subject to regulation by
18 the North Carolina Utilities Commission, or owning and/or operating a public sewerage
19 system shall, within 30 days after the first day of January, April, July and October of
20 each year, make and deliver to the Secretary of Revenue, upon such forms and blanks as
21 required by him, a report verified by the affirmation of the officer or authorized agent
22 making such report and statement, containing the following information:

- 23 (1) The total gross receipts for the three months ending the last day of the
24 month immediately preceding such return from such business within
25 and without this State.
- 26 (2) The total gross receipts for the same period from such business within
27 this State.
- 28 (3) The total gross receipts from the commodities or services described in
29 this section sold to a vendee subject to the tax levied by this section or
30 to a joint agency established under Chapter 159B of the General
31 Statutes or a municipality having an ownership share in a project
32 established under that Chapter.
- 33 (4) The total amount and price paid for such commodities or services
34 purchased from others engaged in the above-named business in this
35 State, and the name or names of the vendor.
- 36 (5) As to gas companies, the gross receipts derived from sales of piped gas
37 to manufacturers which is to be used as an ingredient or component of
38 a manufactured product.

39 Gross receipts shall be reported on an accrual basis.

40 (b) From the total gross receipts within this State there shall be deducted the
41 gross receipts reported in subsection (a)(3) of this section.

42 (c) An annual franchise or privilege tax at the rates specified in this subsection is
43 levied on the businesses listed in subsection (a). This tax is for the privilege of
44 engaging in business in this State and is due and payable quarterly to the Secretary of

1 Revenue when the report required by subsection (a) is filed. The tax on a public
2 sewerage company is at the rate of six percent (6%) of the total gross receipts of the
3 company derived within the State. The tax on an electric power company or a gas
4 company is at the rate of three and twenty-two hundredths percent (3.22%) of the total
5 gross receipts derived within the State. The tax on water companies is at the rate of four
6 percent (4%) of the total gross receipts derived within the State. All deductions allowed
7 by this section shall first be subtracted from total gross receipts to determine the total
8 taxable gross receipts.

9 The tax imposed by this section does not apply to special charges collected within
10 this State by natural gas utilities pursuant to drilling and exploration surcharges
11 approved by the Utilities Commission, where such surcharges are segregated from the
12 other receipts of the natural gas utility and are devoted to drilling, exploration and other
13 means to acquire additional supplies of natural gas for the account of natural gas
14 customers in North Carolina and where the beneficial interest in said surcharge
15 collections is preserved for the natural gas customers paying said surcharges under rules
16 established by the Utilities Commission.

17 In determining the total tax payable by any company under this section, there shall
18 be allowed as a credit on such tax the amount of the credit authorized by Division V of
19 Article 4 of this Chapter.

20 (d) Repealed by Session Laws 1973, c. 1287, s. 3.

21 (e) The report herein required of gross receipts within and without the State, shall
22 include the total gross receipts for the period stated of all properties owned and operated
23 by the reporting person, firm, or corporation on the first day of each calendar quarter
24 year, whether operated by it for the previous annual period, or whether intermediately
25 acquired by purchase or lease, it being the intent and purpose of this section to measure
26 the amount of privilege or franchise tax in each calendar quarter year with reference to
27 the gross receipts of the property operated for the previous calendar quarter year and to
28 fix liability for the payment of the tax on the owner, operator, or lessor on the first day
29 of January, April, July and October of each year.

30 (f) Companies taxed under this section shall not be required to pay the franchise
31 tax imposed by G.S. 105-122 or G.S. 105-123 unless the tax levied by G.S. 105-122 or
32 G.S. 105-123 exceeds the tax levied in this section, and no county shall impose a
33 franchise, license or privilege tax upon the business taxed under this section.

34 (g) The Secretary of Revenue shall determine the total gross receipts derived
35 from the sale within each municipality of the commodities or services described in this
36 section, except water and sewerage services, and shall distribute to each municipality an
37 amount equal to a tax of three and nine hundredths percent (3.09%) of the gross receipts
38 from sales within the municipality. In determining the amount to be distributed to a
39 municipality pursuant to this subsection, gross receipts from sales within a municipality
40 do not include receipts from sales of piped gas to a manufacturer for use as an
41 ingredient or component part of a manufactured product.

42 As soon as practicable after the date on which each quarterly payment of taxes is due
43 under this section, the Secretary of Revenue shall certify to the State Disbursing Officer
44 and to the State Treasurer the amount distributable to each municipality under this

1 ~~section. The State Disbursing Officer shall thereupon issue a warrant on the State~~
2 ~~Treasurer to each municipality in the amount so certified.~~

3 ~~So long as there is a distribution to municipalities of the amount herein provided~~
4 ~~from the tax imposed by this section, no municipality shall impose or collect any greater~~
5 ~~franchise, privilege or license taxes, in the aggregate, on the businesses taxed under this~~
6 ~~section, than was imposed and collected on or before January 1, 1947. If any~~
7 ~~municipality shall have collected any privilege, license or franchise tax between January~~
8 ~~1, 1947, and April 1, 1949, in excess of the tax collected by it prior to January 1, 1947,~~
9 ~~then upon distribution of the taxes imposed by this section to municipalities, the amount~~
10 ~~distributable to any municipality shall be credited with such excess payment.~~

11 ~~(h) For purposes of subsection (g) and of G.S. 105-120(d), the term~~
12 ~~"municipality" includes any urban service district defined by the governing board of a~~
13 ~~consolidated city county, and the amounts due thereby shall be distributed to the~~
14 ~~government of the consolidated city county.~~

15 ~~(a) Tax. An annual franchise or privilege tax is imposed on a person, firm, or~~
16 ~~corporation, other than a municipal corporation, that is:~~

- 17 ~~(1) An electric power company engaged in the business of furnishing~~
18 ~~electricity, electric lights, current, or power.~~
- 19 ~~(2) A natural gas company engaged in the business of furnishing piped~~
20 ~~natural gas.~~
- 21 ~~(3) A water company engaged in owning or operating a water system~~
22 ~~subject to regulation by the North Carolina Utilities Commission.~~
- 23 ~~(4) A public sewerage company engaged in owning or operating a public~~
24 ~~sewerage system.~~

25 ~~The tax on an electric power company is three and twenty-two hundredths percent~~
26 ~~(3.22%) of the company's taxable gross receipts from the business of furnishing~~
27 ~~electricity, electric lights, current, or power. The tax on a natural gas company is three~~
28 ~~and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts~~
29 ~~from the business of furnishing piped natural gas. The tax on a water company is four~~
30 ~~percent (4%) of the company's taxable gross receipts from owning or operating a water~~
31 ~~system subject to regulation by the North Carolina Utilities Commission. The tax on a~~
32 ~~public sewerage company is six percent (6%) of the company's taxable gross receipts~~
33 ~~from owning or operating a public sewerage company. A company's taxable gross~~
34 ~~receipts are its gross receipts from business inside the State less the amount of gross~~
35 ~~receipts from sales reported under subdivision (b)(2). A company that engages in more~~
36 ~~than one business taxed under this section shall pay tax on each business. A company is~~
37 ~~allowed a credit against the tax imposed by this section for the company's investments~~
38 ~~in certain entities in accordance with Division V of Article 4 of this Chapter.~~

39 ~~(b) Payment. The tax imposed by this section is payable when a report is~~
40 ~~required to be filed. An electric power company or a natural gas company shall file a~~
41 ~~report on a monthly basis. A water company or a public sewerage company shall file a~~
42 ~~report on a quarterly basis. A monthly report covers a calendar month and is due within~~
43 ~~25 days after the end of the month covered by the report. A quarterly report covers a~~
44 ~~calendar quarter and is due within 25 days after the end of the quarter covered by the~~

1 report. A company shall submit a report on a form provided by the Secretary. The
2 report shall include the company's gross receipts from all property it owned or operated
3 during the reporting period in connection with its business taxed under this section and
4 shall contain the following information:

- 5 (1) The company's gross receipts for the reporting period from business
6 inside and outside this State, stated separately.
- 7 (2) The company's gross receipts from commodities or services described
8 in subsection (a) that are sold to a vendee subject to the tax levied by
9 this section or to a joint agency established under G.S. Chapter 159B
10 or a municipality having an ownership share in a project established
11 under that Chapter.
- 12 (3) The amount of and price paid by the company for commodities or
13 services described in subsection (a) that are purchased from others
14 engaged in business in this State and the name of each vendor.
- 15 (4) For an electric power company or a natural gas company, the
16 company's gross receipts from the sale within each municipality of the
17 commodities and services described in subsection (a).

18 A company shall report its gross receipts on an accrual basis.

19 (c) Gas Surcharges. Gross receipts of a natural gas company do not include
20 special charges collected within this State by the company pursuant to drilling and
21 exploration surcharges approved by the North Carolina Utilities Commission, if the
22 surcharges are segregated from the other receipts of the company and are devoted to
23 drilling, exploration, and other means to acquire additional supplies of natural gas for
24 the account of natural gas customers in North Carolina and the beneficial interest in the
25 surcharge collections is preserved for the natural gas customers paying the surcharges
26 under rules established by the Commission.

27 (d) Appropriation. There is annually appropriated from the General Fund to each
28 municipality an amount that equals three and nine hundredths percent (3.09%) of the
29 taxable gross receipts derived, from April 1 of the preceding fiscal year to the following
30 March 31, by an electric company and a natural gas company from sales within the
31 municipality of the commodities and services described in subsection (a). The
32 Secretary of Revenue shall transfer the amount appropriated to a municipality in
33 quarterly installments on or before August 15, November 15, February 15, and May 15
34 based on the taxable gross receipts derived within the municipality during the preceding
35 calendar quarter. If a company's report does not state the company's taxable gross
36 receipts derived within a municipality, the Secretary of Revenue shall determine a
37 practical method of allocating part of the company's taxable gross receipts to the
38 municipality. Before transferring the amount appropriated by this subsection, the
39 Secretary of Revenue shall certify the amount to be transferred to the State Controller.
40 The appropriation made by this subsection shall be included in the Current Operations
41 Appropriations Act.

42 As used in this subsection, the term 'municipality' includes an urban service district
43 defined by the governing board of a consolidated city-county. The amount due an urban

1 service district shall be distributed to the governing board of the consolidated city-
2 county.

3 (e) Local Tax. A municipality that imposed a license, franchise, or privilege tax
4 on or before January 1, 1947, on a company taxed under this section may continue to
5 impose the tax in an amount that does not exceed the amount imposed as of that date.
6 Other municipalities and counties may not impose a license, franchise, or privilege tax
7 on a company taxed under this section."

8 Sec. 5. G.S. 105-120 reads as rewritten:

9 **"§ 105-120. Franchise or privilege tax on telephone companies.**

10 (a) Tax. An annual franchise or privilege tax is imposed on a Every person, firm,
11 or corporation, domestic or foreign, owning and/or operating—that owns or operates a
12 business entity for the provision of local telecommunications service. The tax is three
13 and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts. A
14 company's taxable gross receipts are its receipts from providing local
15 telecommunications service, including receipts from rentals and other similar charges,
16 less its receipts from telecommunications access charges. A company is allowed a
17 credit against the tax imposed by this section for the company's investments in certain
18 entities in accordance with Division V of Article 4 of this Chapter. service, shall within
19 30 days after the first day of January, April, July and October of each year, make and deliver to
20 the Secretary of Revenue a quarterly return, verified by the affirmation of the officer or
21 authorized agent making such return, showing the total amount of gross receipts of such
22 business entity for the three months ending the last day of the month immediately preceding
23 such return, and pay, at the time of making such return, the franchise, license or privilege tax
24 herein imposed. Gross receipts shall be reported on an accrual basis.

25 (b) Payment. The tax imposed by this section is payable when a report is
26 required to be filed. A company that is liable for an average of less than three thousand
27 dollars (\$3,000) a month in taxes imposed by this section may, with the approval of the
28 Secretary of Revenue, file a report on a quarterly basis. All other companies shall file a
29 report on a monthly basis. A monthly report covers a calendar month and is due within
30 25 days after the month covered by the report. A quarterly report covers a calendar
31 quarter and is due within 25 days after the end of the quarter covered by the report. A
32 company shall submit a report on a form provided by the Secretary. The report shall
33 state the company's gross receipts for the reporting period from providing local
34 telecommunications service and from providing local telecommunications service
35 within each municipality served. A company shall report its gross receipts on an
36 accrual basis.

37 (c) Appropriation. There is annually appropriated from the General Fund to each
38 municipality an amount that equals three and nine hundredths percent (3.09%) of the
39 taxable gross receipts derived, from April 1 of the preceding fiscal year to the following
40 March 31, from local telecommunications service provided within the municipality.
41 The Secretary of Revenue shall transfer the amount appropriated to a municipality in
42 quarterly installments on or before August 15, November 15, February 15, and May 15
43 based on the taxable gross receipts derived within the municipality during the preceding
44 calendar quarter. If a company's report does not state the company's taxable gross
45 receipts derived within a municipality, the Secretary of Revenue shall determine a

1 practical method of allocating part of the company's taxable gross receipts to the
2 municipality. Before transferring the amount appropriated by this subsection, the
3 Secretary of Revenue shall certify the amount to be transferred to the State Controller.
4 The appropriation made by this subsection shall be included in the Current Operations
5 Appropriations Act.

6 As used in this subsection, the term 'municipality' includes an urban service district
7 defined by the governing board of a consolidated city-county. The amount due an urban
8 service district shall be distributed to the governing board of the consolidated city-
9 county.

10 (d) No Local Tax. Counties and cities may not impose a license, franchise, or
11 privilege tax on a company taxed under this section or under G.S. 105-164.4(4c).

12 (e) Definitions. For purposes of this section:

13 (1) 'Local telecommunications service' means telecommunications service
14 provided wholly within a LATA entitling the user to access to a local
15 telephone exchange for the privilege of telephonic quality
16 communication with substantially all persons in the local telephone
17 exchange. Provided, however, local telecommunications service does
18 not include intraLATA or interLATA toll telecommunications ~~services,~~
19 ~~service,~~ or private telecommunications ~~services;~~ ~~service.~~

20 (2) 'LATA' is a Local Access and Transport Area representing a
21 geographical area comprising one or more telephone exchange ~~areas;~~
22 ~~areas.~~

23 (3) 'InterLATA telecommunications' is telecommunications service
24 provided between two or more ~~LATAs;~~ LATAs.

25 (4) 'Toll telecommunications service' means:

26 a. A telephonic quality communication for which:

27 1. There is a toll charge ~~which~~ that varies in amount with
28 the distance and elapsed transmission time of each
29 individual communication; and

30 2. The charge is paid within the United ~~States;~~ and States.

31 b. A service ~~which~~ that entitles the subscriber, upon payment of a
32 periodic charge (determined as a flat amount or upon the basis
33 of total elapsed transmission time), to the privilege of an
34 unlimited number of telephonic communications to or from all
35 or a substantial portion of the persons having telephone or
36 radiotelephone stations in a specified area ~~which~~ that is outside
37 the local telephone ~~exchange;~~ exchange.

38 (5) 'Private telecommunications service' means a service furnished to a
39 subscriber that entitles the subscriber to exclusive or priority use of a
40 communications channel or group of channels.

41 (6) 'Telecommunications access charges' means charges paid to a provider
42 of local telecommunications service for access to an interconnection
43 with the local telephone exchange.

1 ~~(b) An annual franchise or privilege tax of three and twenty two hundredths~~
2 ~~percent (3.22%), payable quarterly, on the gross receipts of such business entity, is~~
3 ~~herein imposed for the privilege of engaging in such business within this State.~~
4 ~~Provided, however, gross receipts from local telephone service shall not include~~
5 ~~telecommunications access charges. Such gross receipts shall include all rentals and~~
6 ~~other similar charges. Telecommunications access charges are those charges paid to a~~
7 ~~provider of local telephone service for access to an interconnection with the local~~
8 ~~telephone exchange.~~

9 ~~(c) Repealed by Session Laws 1973, c. 1287, s. 3.~~

10 ~~(d) The Secretary of Revenue shall ascertain the total gross receipts derived from~~
11 ~~local business conducted within each municipality in this State by persons, firms or~~
12 ~~corporations taxed under this section, and out of the tax levied by this section, an~~
13 ~~amount equal to a tax of three and nine hundredths percent (3.09%) of the gross receipts~~
14 ~~from local business conducted within any municipality shall be distributed to such~~
15 ~~municipality. When a person, firm or corporation taxed under this section properly~~
16 ~~receives a credit on said taxes under the proviso in subsection (b) because of payments~~
17 ~~made to a municipality, such municipality's distributive share of the taxes levied by this~~
18 ~~section shall be reduced by the amount of the credit properly received by said person,~~
19 ~~firm or corporation. If the credit received under the proviso is greater than the~~
20 ~~municipality's distributive share of the taxes levied under this section, no distribution to~~
21 ~~such municipality shall be made.~~

22 ~~As soon as practicable after the date on which each quarterly payment of taxes is due~~
23 ~~under this section, the Secretary of Revenue shall certify to the State Disbursing Officer~~
24 ~~and to the State Treasurer the amount distributable to each municipality under this~~
25 ~~section. The State Disbursing Officer shall thereupon issue a warrant on the State~~
26 ~~Treasurer to each municipality in the amount so certified.~~

27 ~~In determining what constitutes local business conducted within a municipality for~~
28 ~~the purposes of this subsection, all business originating within a municipality, except~~
29 ~~long distance calls, shall be construed as local business.~~

30 ~~The Department of Revenue is hereby authorized and empowered to require any and~~
31 ~~all persons, firms or corporations taxed under this section to file additional reports~~
32 ~~disclosing the gross receipts derived from local business as herein defined and the gross~~
33 ~~receipts from long distance business.~~

34 ~~If the records of the corporation taxed under this section do not readily disclose~~
35 ~~allocation to municipalities of revenues from local business as above defined, the~~
36 ~~Secretary of Revenue shall prescribe some practicable method of allocating such local~~
37 ~~revenues.~~

38 ~~(e) Nothing in this section shall be construed to authorize the imposition of any~~
39 ~~tax upon interstate commerce.~~

40 ~~(f) Counties, cities and towns shall not levy any franchise, license, or privilege~~
41 ~~tax on the business taxed under this section or under G.S. 105-164.4(4e)."~~

42 ~~Sec. 6. Notwithstanding G.S. 105-116 and 105-120, an electric power~~
43 ~~company, a gas company, or a telephone company that would otherwise remit gross~~
44 ~~receipts taxes that accrued in April 1990 and May 1990 within 30 days after July 1,~~

1 1990, shall remit the gross receipts taxes that accrued during April and May to the
2 Secretary of Revenue by June 25, 1990, and shall remit the gross receipts taxes that
3 accrue in June 1990 to the Secretary of Revenue by July 25.

4 Sec. 7. G.S. 105-113.82 reads as rewritten:

5 **"§ 105-113.82. ~~Distribution~~ Appropriation of amount equal to part of beer and wine**
6 **taxes.**

7 (a) Amount, Method. — ~~The Secretary shall annually distribute the following~~
8 ~~percentages of~~ An amount equal to the following percentages of the net amount of excise
9 ~~taxes collected~~ collected, during the period that begins the preceding October 1 and ends
10 September 30, on the sale of malt beverages and wine, less the amount of the net
11 proceeds ~~distributed~~ credited to the Department of Agriculture under G.S 105-113.81A,
12 is annually appropriated from the General Fund to the counties and cities in which the
13 retail sale of these beverages is authorized:

- 14 (1) Of the tax on malt beverages levied under G.S. 105-113.80(a), twenty-
15 three and three-fourths percent (23 3/4%);
16 (2) Of the tax on unfortified wine levied under G.S. 105-113.80(b), sixty-
17 two percent (62%); and
18 (3) Of the tax on fortified wine levied under G.S. 105-113.80(b), twenty-
19 two percent (22%).

20 If malt beverages, unfortified wine, or fortified wine may be licensed to be sold at
21 retail in both a county and a city located in the county, both the county and city shall
22 receive a portion of the amount ~~of excise tax to be distributed, appropriated,~~ that portion to
23 be determined on the basis of population. If one of these beverages may be licensed to
24 be sold at retail in a city located in a county in which the sale of the beverage is
25 otherwise prohibited, only the city shall receive a portion of the amount ~~of excise tax to~~
26 ~~be distributed, appropriated,~~ that portion to be determined on the basis of population. The
27 ~~amounts~~ amount of the appropriation to be distributed under subdivisions (1), (2), and
28 (3) shall be computed separately.

29 (b) Reduction in ~~Amount Distributed.~~ Appropriation. — Where the sale of malt
30 beverages, unfortified wine, or fortified wine is prohibited in a defined area of a city or
31 county in which the sale of the beverage is authorized, the amount that would otherwise
32 ~~distributable be appropriated~~ to the city or county on the basis of population under
33 subsection (a) shall be reduced in the same ratio that the area of the defined area bears
34 to the total area of the city or county, unless the defined area is a city. If the defined area
35 in a county is a city, the reduction in the amount that would otherwise distributable be
36 appropriated to the county under subsection (a) shall be based on population instead of
37 area. ~~All reductions shall be retained by the State.~~

38 (c) Exception. — Notwithstanding subsection (a), in a county in which ABC stores
39 have been established by petition, ~~revenue~~ the amount appropriated shall be distributed
40 as though the entire county had approved the retail sale of a beverage whose retail sale
41 is authorized in part of the county.

42 (d) Time. — The ~~distribution~~ appropriation shall be ~~made~~ distributed to cities and
43 counties within 60 days after September 30 of each year ~~and shall be based on collections~~
44 during the preceding 12-month period ending September 30. ~~year.~~

1 (e) Population Estimates. – To determine the population of a city or county for
2 purposes of the distribution required by this section, the Secretary shall use the most
3 recent annual estimate of population certified by the State Budget Officer.

4 (f) City Defined. – As used in this section, the term 'city' means a city as defined
5 in G.S. 153A-1(1) or an urban service district defined by the governing body of a
6 consolidated city-county.

7 (g) Use of Funds. – Funds ~~distributed~~ appropriated to a county or city under this
8 section may be used for any public purpose.

9 (h) Act. – The appropriation made by this section shall be included in the Current
10 Operations Appropriations Act."

11 Sec. 8. G.S. 105-198 reads as rewritten:

12 **"§ 105-198. Intangible personal property.**

13 The intangible personal properties enumerated and defined in this Article ~~or schedule~~
14 are hereby classified under authority of Section 2(2), Article V of the Constitution, and the
15 taxes levied thereon are for the benefit of the State for distribution to political subdivisions of
16 the State as hereinafter provided. North Carolina Constitution. The taxes are levied for the
17 purposes stated in this Article. Banks or banking associations, trust companies or any
18 combination of such facilities or services shall be subject to the provisions of this Article for
19 taxable years beginning on and after January 1, 1974."

20 Sec. 9. G.S. 105-213 reads as rewritten:

21 **"§ 105-213. ~~Separate records by counties; disposition and distribution of taxes~~**
22 **~~collected; purpose of tax.~~ Appropriation to counties and municipalities;**
23 **use of appropriation.**

24 (a) There is annually appropriated from the General Fund to counties and
25 municipalities the amount of revenue collected under this Article during the preceding
26 fiscal year, plus an amount equal to forty percent (40%) of the tax collected on accounts
27 receivable during the preceding fiscal year and less an amount equal to the costs during
28 the preceding fiscal year of:

29 (1) Refunds made during the fiscal year of taxes levied under this Article.

30 (2) The Department of Revenue to collect and administer the taxes levied
31 under this Article.

32 (3) The Department of Revenue in performing the duties imposed by
33 Article 15 of this Chapter.

34 (4) The Property Tax Commission.

35 (5) The Institute of Government in operating a training program in
36 property tax appraisal and assessment.

37 The appropriation shall be distributed on or before October 30 of each year. The
38 appropriation shall be included in the Current Operations Appropriations Act.

39 To distribute the appropriation, ~~The~~ the Secretary of Revenue shall keep a separate
40 record by counties of the taxes collected under the provisions of this Article and shall, as
41 soon as practicable after the close of each fiscal year, shall certify to the State Disbursing
42 Officer-Controller and to the State Treasurer the amount of such taxes to be distributed to
43 each county and municipality in the State. The State ~~Disbursing Officer-Controller~~ shall

1 ~~thereupon then~~ issue a warrant on the State Treasurer to each county and municipality in
2 the amount ~~so~~ certified.

3 ~~In determining the amount to be distributed, the Secretary shall deduct from the net~~
4 ~~amount of taxes collected under this Article, which is the total amount collected less~~
5 ~~refunds, the cost to the State for the preceding fiscal year to:~~

- 6 (1) ~~Collect and administer the taxes levied under this Article;~~
- 7 (2) ~~Perform the duties imposed upon the Department of Revenue by~~
8 ~~Article 15 of this Chapter;~~
- 9 (3) ~~Operate the Property Tax Commission; and~~
- 10 (4) ~~Operate a training program in property tax appraisal and assessment~~
11 ~~administration by the Institute of Government.~~

12 The Secretary shall allocate the ~~net amount of taxes collected under this Article, less the~~
13 ~~deductions enumerated above, amount appropriated under this Article~~ to the counties
14 according to the county in which the taxes were collected. The Secretary shall then
15 increase the amount allocable to each county by a sum equal to forty percent (40%) of
16 the amount of tax on accounts receivable allocated to the county on the basis of
17 collections. The amounts so allocated to each county shall in turn be divided between
18 the county and ~~all municipalities therein~~ the municipalities in the county in proportion to
19 the total amount of ad valorem taxes levied by each during the fiscal year preceding
20 ~~such~~ the distribution. For the purpose of computing the distribution of the intangibles
21 tax to any county and the municipalities located ~~therein~~ in the county for any year with
22 respect to which the property valuation of a public service company is the subject of an
23 appeal pursuant to the provisions of the Machinery Act, or to applicable provisions of
24 federal law, and the Department of Revenue is restrained by operation of law or by a
25 court of competent jurisdiction from certifying such valuation to the county and
26 municipalities therein, the Department shall use the last property valuation of such
27 public service company which has been so certified in order to determine the ad
28 valorem tax levies applicable to such public service company in the county and the
29 municipalities therein.

30 ~~It shall be the duty of the~~ The chairman of the each board of county commissioners of
31 ~~each county~~ and the mayor of each municipality ~~therein to shall~~ report to the Secretary of
32 Revenue ~~such information as he may request for his guidance in making said allotments.~~
33 requested by the Secretary to enable the Secretary to distribute the amount appropriated
34 by this section. In the event any county or municipality fails to make such report within the
35 time prescribed, the Secretary of Revenue may disregard such defaulting unit in making said
36 allotments. If a county or municipality fails to make a requested report within the time
37 allowed, the Secretary may disregard the county or municipality in distributing the
38 amount appropriated by this section. The amounts so allocated amount distributed to
39 each county and municipality shall be distributed and used by said ~~the~~ county or
40 municipality in proportion to ~~other~~ property tax levies made by it for the various funds
41 and activities of the taxing unit receiving said allotment; provided, however, that a county or
42 municipality may, without regard to any such requirement as to proportionality, use amounts so
43 allocated and amounts allocated under G.S. 105-213.1 and distributed to the county or
44 municipality to secure its obligation under a loan agreement entered into pursuant to the North

1 ~~Carolina Solid Waste Management Loan Program, Chapter 159I of the General Statutes.~~
2 county or municipality, unless the county or municipality has pledged the amount to be
3 distributed to it under this section in payment of a loan agreement with the North
4 Carolina Solid Waste Management Capital Projects Financing Agency. A county or
5 municipality that has pledged amounts distributed under this section in payment of a
6 loan agreement with the Agency may apply the amount the loan agreement requires.

7 (b) For purposes of this section, the term 'municipality' includes any urban
8 service district defined by the governing board of a consolidated city-county, and the
9 amounts due thereby shall be distributed to the government of the consolidated city-
10 county."

11 Sec. 10. G.S. 105-213.1 reads as rewritten:

12 "**§ 105-213.1. Additional ~~distribution~~ appropriation to counties and municipalities.**

13 (a) ~~Distribution Appropriation.~~ – As soon as practicable after July 1 of 1986, the
14 Secretary of Revenue shall allocate for distribution to each county and the
15 municipalities located in the county the amount allocated to that county from taxes
16 levied under G.S. 105-199, 105-200, and 105-205 for the last taxable year in which
17 these taxes were levied, plus or minus a sum that equals the product of this amount and
18 the percentage by which State disposable personal income has increased or decreased
19 during the most recent 12-month period for which State personal income data has been
20 compiled by the Bureau of Economic Analysis of the United States Department of
21 Commerce.

22 Thereafter, ~~as soon as practicable after July 1 of each year,~~ by October 1 of each year,
23 the Secretary shall allocate to each county the amount of funds allocated to the county
24 under this section the preceding year, plus or minus a sum that equals the product of this
25 amount and the percentage by which State disposable personal income has increased or
26 decreased during the most recent 12-month period for which State personal income data
27 has been compiled by the Bureau of Economic Analysis of the United States
28 Department of Commerce.

29 Amounts allocated to a county under this section shall in turn be divided and
30 distributed between the county and the municipalities located in the county in
31 accordance with the method of allocating intangible tax revenue between a county and
32 the municipalities located in the county provided in G.S. 105-213.

33 (b) Restrictions on Use. – Amounts distributed to a county or a municipality
34 under this section are subject to the same restrictions as amounts distributed under G.S.
35 105-213.

36 (c) Municipality Defined. – As used in this section, the term 'municipality' has
37 the same meaning as in G.S. 105-213.

38 (d) Source. Funds distributed under this section shall be drawn from the Local
39 Government Tax Reimbursement Reserve."

40 Sec. 11. On the effective date of this act, excise taxes on beer and wine
41 levied by G.S. 105-113.80, gross receipts taxes on utility companies levied by G.S. 105-
42 116 and 105-120, and taxes on intangible personal property levied by Article 7 of
43 Chapter 105 will no longer be reserved for distribution to local governments. Instead,
44 the taxes will become part of the General Fund and will be available for appropriation.

1 Amounts reserved for distribution to local governments under G.S. 105-116, 105-120,
2 105-113.82, and 105-213 on the effective date of this act shall revert to the General
3 Fund.

4 Sec. 12. G.S. 147-69.1(c)(6) and 147-69.1(f) are repealed.

5 Sec. 13. G.S. 147-69.2(b) is amended by adding the following subdivisions
6 to read:

7 "(9) Obligations and securities of the North Carolina Enterprise
8 Corporation, not to exceed twenty million dollars (\$20,000,000) from
9 all funds.

10 (10) A limited partnership interest in a partnership whose primary purpose
11 is to invest in venture capital or corporate buyout transactions, not to
12 exceed thirty million dollars (\$30,000,000) from all funds."

13 Sec. 14. The amount invested from the General Fund and the Highway Fund
14 pursuant to G.S. 147-69.1(c)(6) and 147-69.1(f) before their repeal shall be considered
15 an investment from the funds listed in G.S. 147-69.2(a). An amount equal to the
16 investment made from the General Fund under G.S. 147-69.1(c)(6) and 147-69.1(f)
17 shall be transferred to the General Fund from the funds listed in G.S. 147-69.2(a) and an
18 amount equal to the investment made from the Highway Fund under the same statutes
19 shall be transferred to the Highway Fund from the funds listed in G.S. 147-69.2(a).

20 Sec. 15. Sections 1, 2, 4, and 5 of this act shall become effective July 1,
21 1990, and shall apply to gross receipts earned from services and commodities provided
22 on or after that date and to sales of electricity, piped natural gas, or local
23 telecommunications service made on or after that date. The remaining sections of this
24 act are effective upon ratification.