

GENERAL ASSEMBLY OF NORTH CAROLINA
1989 SESSION

CHAPTER 813
HOUSE BILL 2377

AN ACT TO REQUIRE UTILITIES TO PAY CERTAIN TAXES IN FISCAL YEAR 1989-90 THAT WOULD OTHERWISE BE PAYABLE IN FISCAL YEAR 1990-91 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. Notwithstanding G.S. 105-164.16(c), a utility that has an accrued sales tax liability for the months of April and May, 1990 of at least two thousand dollars (\$2,000) and would otherwise remit the accrued taxes within 30 days after June 30, 1990, shall remit the sales taxes that accrued during April and May to the Secretary of Revenue by June 25, 1990. Sales taxes that accrue in June 1990 are payable to the Secretary of Revenue by July 30, 1990. When remitting these taxes, a municipality may deduct the amount allowable under G.S. 105-164.21A for the period for which taxes are remitted.

Sec. 2. Notwithstanding G.S. 105-116 and 105-120, an electric power company, a gas company, or a telephone company that has an accrued franchise tax liability for the months of April and May, 1990 of at least two thousand dollars (\$2,000) and would otherwise remit the accrued taxes within 30 days after July 1, 1990, shall remit the gross receipts taxes that accrued during April and May to the Secretary of Revenue by June 25, 1990. Gross receipts taxes that accrue in June 1990 are payable to the Secretary of Revenue by July 30, 1990.

Sec. 3. G.S. 105-116 reads as rewritten:

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

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

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

~~Gross receipts shall be reported on an accrual basis.~~

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

~~(c) An annual franchise or privilege tax at the rates specified in this subsection is levied on the businesses listed in subsection (a). This tax is for the privilege of engaging in business in this State and is due and payable quarterly to the Secretary of Revenue when the report required by subsection (a) is filed. The tax on a public sewerage company is at the rate of six percent (6%) of the total gross receipts of the company derived within the State. The tax on an electric power company or a gas company is at the rate of three and twenty two hundredths percent (3.22%) of the total gross receipts derived within the State. The tax on water companies is at the rate of four percent (4%) of the total gross receipts derived within the State. All deductions allowed by this section shall first be subtracted from total gross receipts to determine the total taxable gross receipts.~~

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

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

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

~~(e) The report herein required of gross receipts within and without the State, shall include the total gross receipts for the period stated of all properties owned and operated~~

~~by the reporting person, firm, or corporation on the first day of each calendar quarter year, whether operated by it for the previous annual period, or whether intermediately acquired by purchase or lease, it being the intent and purpose of this section to measure the amount of privilege or franchise tax in each calendar quarter year with reference to the gross receipts of the property operated for the previous calendar quarter year and to fix liability for the payment of the tax on the owner, operator, or lessor on the first day of January, April, July and October of each year.~~

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

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

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

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

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

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

- ~~(1) An electric power company engaged in the business of furnishing electricity, electric lights, current, or power.~~
- ~~(2) A natural gas company engaged in the business of furnishing piped natural gas.~~
- ~~(3) A water company engaged in owning or operating a water system subject to regulation by the North Carolina Utilities Commission.~~

- (4) A public sewerage company engaged in owning or operating a public sewerage system.

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

(b) Payment. The tax imposed by this section is payable when a report is required to be filed. A company taxed under this section shall file a report on a quarterly basis. A quarterly report covers a calendar quarter and is due within 30 days after the end of the quarter covered by the report. A company shall submit a report on a form provided by the Secretary. The report shall include the company's gross receipts from all property it owned or operated during the reporting period in connection with its business taxed under this section and shall contain the following information:

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

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

(c) Gas Surcharges. Gross receipts of a natural gas company do not include special charges collected within this State by the company pursuant to drilling and exploration surcharges approved by the North Carolina Utilities Commission, if the surcharges are segregated from the other receipts of the company and are devoted to drilling, exploration, and other means to acquire additional supplies of natural gas for the account of natural gas customers in North Carolina and the beneficial interest in the

surcharge collections is preserved for the natural gas customers paying the surcharges under rules established by the Commission.

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

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

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

Sec. 4. G.S. 105-120 reads as rewritten:

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

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

(b) Payment. The tax imposed by this section is payable when a report is required to be filed. A company taxed under this section shall file a report on a quarterly basis. A quarterly report covers a calendar quarter and is due within 30 days after the end of the quarter covered by the report. A company shall submit a report on a form provided by the Secretary. The report shall state the company's gross receipts for the reporting period from providing local telecommunications service and from providing local telecommunications service within each municipality served. A company shall report its gross receipts on an accrual basis.

(c) Appropriation. There is annually appropriated from the General Fund to each municipality an amount that equals three and nine hundredths percent (3.09%) of the taxable gross receipts derived, from April 1 of the preceding fiscal year to the following March 31, from local telecommunications service provided within the municipality. The Secretary of Revenue shall transfer the amount appropriated to a municipality in quarterly installments on or before September 15, December 15, March 15, and June 15 based on the taxable gross receipts derived within the municipality during the preceding calendar quarter. If a company's report does not state the company's taxable gross receipts derived within a municipality, the Secretary of Revenue shall determine a practical method of allocating part of the company's taxable gross receipts to the municipality. Before transferring the amount appropriated by this subsection, the Secretary of Revenue shall certify the amount to be transferred to the State Controller. The appropriation made by this subsection shall be included in the Current Operations Appropriations Act.

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

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

(e) Definitions. For purposes of this section:

- (1) 'Local telecommunications service' means telecommunications service provided wholly within a LATA entitling the user to access to a local telephone exchange for the privilege of telephonic quality communication with substantially all persons in the local telephone exchange. Provided, however, local telecommunications service does not include intraLATA or interLATA toll telecommunications ~~services; service,~~ or private telecommunications ~~services; service.~~
- (2) 'LATA' is a Local Access and Transport Area representing a geographical area comprising one or more telephone exchange ~~areas;~~ areas.
- (3) 'InterLATA telecommunications' is telecommunications service provided between two or more ~~LATAs;~~ LATAs.
- (4) 'Toll telecommunications service' means:
 - a. A telephonic quality communication for which:

1. There is a toll charge ~~which~~ that varies in amount with the distance and elapsed transmission time of each individual communication; and
 2. The charge is paid within the United States; ~~and States.~~
- b. A service ~~which~~ that entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of total elapsed transmission time), to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radiotelephone stations in a specified area ~~which~~ that is outside the local telephone ~~exchange;~~ exchange.
- (5) 'Private telecommunications service' means a service furnished to a subscriber that entitles the subscriber to exclusive or priority use of a communications channel or group of channels.
- (6) 'Telecommunications access charges' means charges paid to a provider of local telecommunications service for access to an interconnection with the local telephone exchange.

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

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

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

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

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

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

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

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

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

~~Sec. 5. G.S. 105-113.82 reads as rewritten:~~

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

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

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

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

~~(b) Reduction in Amount Distributed. Appropriation. – Where the sale of malt beverages, unfortified wine, or fortified wine is prohibited in a defined area of a city or county in which the sale of the beverage is authorized, the amount that would otherwise distributable be appropriated to the city or county on the basis of population under~~

subsection (a) shall be reduced in the same ratio that the area of the defined area bears to the total area of the city or county, unless the defined area is a city. If the defined area in a county is a city, the reduction in the amount that would otherwise distributable be appropriated to the county under subsection (a) shall be based on population instead of area. ~~All reductions shall be retained by the State.~~

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

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

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

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

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

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

Sec. 6. G.S. 105-198 reads as rewritten:

"§ 105-198. Intangible personal property.

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

Sec. 7. G.S. 105-213 reads as rewritten:

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

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

- (1) Refunds made during the fiscal year of taxes levied under this Article.
- (2) The Department of Revenue to collect and administer the taxes levied under this Article.

- (3) The Department of Revenue in performing the duties imposed by Article 15 of this Chapter.
- (4) The Property Tax Commission.
- (5) The Institute of Government in operating a training program in property tax appraisal and assessment.

The appropriation shall be distributed by August 30 of each year. The appropriation shall be included in the Current Operations Appropriations Act.

To distribute the appropriation, The the Secretary of Revenue shall keep a separate record by counties of the taxes collected under the provisions of this Article and shall, as soon as practicable after the close of each fiscal year, shall certify to the State Disbursing Officer Controller and to the State Treasurer the amount of such taxes to be distributed to each county and municipality in the State. The State Disbursing Officer Controller shall thereupon then issue a warrant on the State Treasurer to each county and municipality in the amount so certified.

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

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

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

ad valorem tax levies applicable to such public service company in the county and the municipalities therein.

~~It shall be the duty of the~~ The chairman of the each board of county commissioners of ~~each county~~ and the mayor of each municipality ~~therein to shall~~ report to the Secretary of Revenue ~~such information as he may request for his guidance in making said allotments. requested by the Secretary to enable the Secretary to distribute the amount appropriated by this section.~~ In the event any county or municipality fails to make such report within the time prescribed, the Secretary of Revenue may disregard such defaulting unit in making said allotments. If a county or municipality fails to make a requested report within the time allowed, the Secretary may disregard the county or municipality in distributing the amount appropriated by this section. ~~The amounts so allocated amount distributed~~ to each county and municipality shall be ~~distributed and used by said the~~ county or municipality in proportion to ~~other~~ property tax levies made by it for the various funds and activities of the ~~taxing unit receiving said allotment; provided, however, that a county or municipality may, without regard to any such requirement as to proportionality, use amounts so allocated and amounts allocated under G.S. 105-213.1 and distributed to the county or municipality to secure its obligation under a loan agreement entered into pursuant to the North Carolina Solid Waste Management Loan Program, Chapter 159I of the General Statutes. county or municipality, unless the county or municipality has pledged the amount to be distributed to it under this section in payment of a loan agreement with the North Carolina Solid Waste Management Capital Projects Financing Agency. A county or municipality that has pledged amounts distributed under this section in payment of a loan agreement with the Agency may apply the amount the loan agreement requires.~~

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

Sec. 8. G.S. 105-213.1 reads as rewritten:

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

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

~~Thereafter, as soon as practicable after July 1 of each year, by August 30 of each year,~~ the Secretary shall allocate to each county the amount of funds allocated to the county under this section the preceding year, plus or minus a sum that equals the product of this amount and the percentage by which State disposable personal income has increased or decreased during the most recent 12-month period for which State

personal income data has been compiled by the Bureau of Economic Analysis of the United States Department of Commerce.

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

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

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

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

Sec. 9. On the effective date of this act, excise taxes on beer and wine levied by G.S. 105-113.80, gross receipts taxes on utility companies levied by G.S. 105-116 and G.S. 105-120, and taxes on intangible personal property levied by Article 7 of Chapter 105 will no longer be reserved for distribution to local governments. Instead, the taxes will become part of the General Fund and will be available for appropriation. Amounts reserved for distribution to local governments under G.S. 105-116, 105-120, 105-113.82, and 105-213 on the effective date of this act shall revert to the General Fund.

Sec. 10. G.S. 147-69.1(c)(6) and G.S. 147-69.1(f) are repealed.

Sec. 11. G.S. 147-69.2(b) is amended by adding the following subdivisions to read:

- "(9) Obligations and securities of the North Carolina Enterprise Corporation, not to exceed twenty million dollars (\$20,000,000) from all funds.
- "(10) A limited partnership interest in a partnership whose primary purpose is to invest in venture capital or corporate buyout transactions, not to exceed thirty million dollars (\$30,000,000) from all funds."

Sec. 12. The amount invested from the General Fund and the Highway Fund pursuant to G.S. 147-69.1(c)(6) and G.S. 147-69.1(f) before their repeal shall be considered an investment from the funds listed in G.S. 147-69.2(a). An amount equal to the investment made from the General Fund under G.S. 147-69.1(c)(6) and 147-69.1(f) shall be transferred to the General Fund from the funds listed in G.S. 147-69.2(a) and an amount equal to the investment made from the Highway Fund under the same statutes shall be transferred to the Highway Fund from the funds listed in G.S. 147-69.2(a).

Sec. 13. G.S. 105-164.3(25) reads as rewritten:

- "(25) 'Utility' means an electric power company, a gas company, or a telephone company that is subject to a privilege tax based on gross receipts under G.S. 105-116 or 105-120, a business entity that provides local, ~~toll~~-toll, or private telecommunications service as defined by G.S. ~~105-120(a)~~-105-120(e) or a municipality that sells electric power, other than a municipality whose only wholesale supplier of electric

power is a federal agency and who is required by a contract with that federal agency to make payments in lieu of taxes."

Sec. 14. G.S. 105-164.4(a)(4a) reads as rewritten:

"(4a) At the rate of three percent (3%) of the gross receipts derived by a utility from sales of electricity, piped natural gas, or local telecommunications service as defined by G.S. ~~105-120(a)~~105-120(e). A person who operates a utility is considered a retailer under this Article."

Sec. 15. G.S. 105-164.4(a)(4c) reads as rewritten:

"(4c) At the rate of six and one-half percent (6 1/2%) of the gross receipts derived from providing toll telecommunications services or private telecommunications services as defined by G.S. ~~105-120(a)~~105-120(e) that both originate from and terminate in the State ~~which and~~ are not subject to the privilege tax under G.S. 105-120. Any business entity that provides the service outlined above is considered a retailer under this Article. This subdivision ~~shall~~does not apply to telephone membership corporations as described in Chapter 117 of the General Statutes."

Sec. 16. The General Assembly recognizes that the distributions to local governments from gross receipts franchise taxes, beer and wine taxes, and intangible taxes are a traditional revenue source for local governments. The General Assembly therefore intends that the appropriations under G.S. 105-113.82, 105-116, 105-120, and 105-213 be continuing appropriations.

Sec. 17. This act is effective upon ratification.

In the General Assembly read three times and ratified this the 21st day of June, 1990.