

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1991

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HOUSE BILL 916  
Committee Substitute Favorable 6/25/92

Short Title: Local Reimbursements Earmarked.

(Public)

Sponsors:

Referred to:

April 18, 1991

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT REIMBURSEMENTS TO LOCAL GOVERNMENTS SHALL BE PROVIDED BY EARMARKING RATHER THAN BY APPROPRIATION AND TO PROVIDE THAT THE FISCAL TRENDS STUDY COMMISSION SHALL STUDY LOCAL GOVERNMENT FISCAL ISSUES.

The General Assembly of North Carolina enacts:

Section 1. G.S. 105-164.44C reads as rewritten:

"§ 105-164.44C. Reimbursement for sales taxes on food stamp foods and supplemental foods.

~~There is annually appropriated to each county and the cities in the county an amount equal to~~ As soon as practicable after July 1 of each year, the Secretary shall make a preliminary allocation to each county of the amount of local sales taxes that would have been collected in the county during the 1989-90 fiscal year on foods purchased with food stamp coupons or supplemental food instruments in the county, had these foods not been exempt from tax under G.S. 105-164.13(38). The Secretary shall then distribute the amounts determined to be due allocated to each county between the county and the cities located in the county in accordance with the method by which local sales and use taxes are distributed in that county. In order to pay for the reimbursement under this section and the cost to the Department of Revenue for administering the reimbursement, the Secretary of Revenue shall draw from the Local Government Tax Reimbursement Reserve collections received under Division I of Article 4 of this Chapter an amount equal to the amount of the reimbursement and the cost of administration."

Sec. 2. G.S. 105-275.1(e) reads as rewritten:

1       "(e) Source of Funds. – To pay for the distribution required by this section and the  
2 cost to the Department of Revenue of making the distribution, the Secretary of Revenue  
3 shall draw from ~~the Local Government Tax Reimbursement Reserve~~ collections received  
4 under Division I of Article 4 of this Chapter an amount equal to the amount distributed  
5 and the cost of making the distribution."

6           Sec. 3. G.S. 105-277A(f) reads as rewritten:

7       "(f) Source of Funds. – To pay for the distribution required by this section and the  
8 cost of making the distribution, the Secretary shall draw from ~~the Local Government Tax~~  
9 ~~Reimbursement Reserve~~ collections received under Division I of Article 4 of this Chapter  
10 an amount equal to the amount distributed and the cost of making the distribution."

11           Sec. 4. G.S. 105-277.1A(f) reads as rewritten:

12       "(f) In order to pay for the reimbursement under this section and the cost to the  
13 Department of Revenue of administering the reimbursement, the Secretary of Revenue  
14 shall draw from ~~the Local Government Tax Reimbursement Reserve~~ collections received  
15 under Division I of Article 4 of this Chapter an amount equal to the reimbursement and  
16 the cost of administration."

17           Sec. 5. G.S. 105-213.1 reads as rewritten:

18       "**§ 105-213.1. Additional appropriation to counties and municipalities. Reimbursement**  
19       **to counties and municipalities for partial repeal of tax on intangible**  
20       **personal property.**

21       (a) ~~Appropriation. Reimbursement for Repeal of Tax on Money on Deposit,~~  
22 ~~Money on Hand, and Funds on Deposit with Insurance Companies. – On or before~~  
23 ~~August 30 of each year, the Secretary of Revenue shall allocate for distribution to each~~  
24 ~~county and the municipalities in the county the amount allocated to the county under~~  
25 ~~this subsection in 1990. As soon as practicable after July 1 of 1986, the Secretary of~~  
26 ~~Revenue shall allocate for distribution to each county and the municipalities located in the~~  
27 ~~county the amount allocated to that county from taxes levied under G.S. 105-199, 105-200, and~~  
28 ~~105-205 for the last taxable year in which these taxes were levied, plus or minus a sum that~~  
29 ~~equals the product of this amount and the percentage by which State disposable personal~~  
30 ~~income has increased or decreased during the most recent 12-month period for which State~~  
31 ~~personal income data has been compiled by the Bureau of Economic Analysis of the United~~  
32 ~~States Department of Commerce.~~

33       ~~Thereafter, by August 30 of 1987, 1988, 1989, and 1990, the Secretary shall allocate~~  
34 ~~to each county the amount of funds allocated to the county under this section the~~  
35 ~~preceding year, plus or minus a sum that equals the product of this amount and the~~  
36 ~~percentage by which State disposable personal income has increased or decreased~~  
37 ~~during the most recent 12-month period for which State personal income data has been~~  
38 ~~compiled by the Bureau of Economic Analysis of the United States Department of~~  
39 ~~Commerce.~~

40       ~~Thereafter, by August 30 of each year, the Secretary shall allocate to each county the~~  
41 ~~amount of funds allocated to the county under this section in 1990.~~

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

1       (a1) Reimbursement for Partial Repeal of Tax on Accounts Receivable. – On or  
2 before August 30 of each year, the Secretary of Revenue shall distribute to counties and  
3 municipalities an amount equal to forty percent (40%) of the tax collected on accounts  
4 receivable during the 1989-90 fiscal year. The Secretary of Revenue shall first allocate  
5 the amount to be distributed in this subsection to the counties in the same manner as the  
6 amount allocated in G.S. 105-213. The amount allocated to each county shall in turn be  
7 divided and distributed between the county and the municipalities located in the county  
8 in accordance with the method of allocating intangible tax revenue between a county  
9 and the municipalities located in the county provided in G.S. 105-213.

10       (b) Restrictions on Use. – Amounts distributed to a county or a municipality  
11 under this section are subject to the same restrictions as amounts distributed under G.S.  
12 105-213.

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

15       (d) Source. – Funds distributed under this section shall be drawn from ~~the Local~~  
16 ~~Government Tax Reimbursement Reserve.~~ collections received under Division I of Article  
17 4 of this Chapter."

18               Sec. 6. G.S. 105-213 reads as rewritten:

19 **"§ 105-213. Appropriation to counties and municipalities; use of appropriation.**

20       (a) There is annually appropriated from the General Fund to counties and  
21 municipalities the amount of revenue collected under this Article during the 1989-90  
22 fiscal year, ~~plus an amount equal to forty percent (40%) of the tax collected on accounts~~  
23 ~~receivable during the 1989-90 fiscal year and~~ less an amount equal to the costs during the  
24 preceding fiscal year of:

- 25               (1) Refunds made during the fiscal year of taxes levied under this Article.
- 26               (2) The Department of Revenue to collect and administer the taxes levied  
27               under this Article.
- 28               (3) The Department of Revenue in performing the duties imposed by  
29               Article 15 of this Chapter.
- 30               (4) The Property Tax Commission.
- 31               (5) The Institute of Government in operating a training program in  
32               property tax appraisal and assessment.
- 33               (6) The personnel and operations provided by the Department of State  
34               Treasurer for the Local Government Commission.

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

37 The appropriation shall be allocated among the counties in proportion to the amount  
38 of taxes collected under this Article in each county during the preceding fiscal year.  
39 The Secretary of Revenue shall keep a separate record by counties of the taxes collected  
40 under this Article. The Secretary shall allocate the amount appropriated under this  
41 section to the counties according to the county in which the taxes were collected. The  
42 amounts so allocated to each county shall in turn be allocated between the county and  
43 the municipalities in the county in proportion to the total amount of ad valorem taxes  
44 levied by each during the fiscal year preceding the distribution. In dividing these

1 amounts between each county and its municipalities, the Secretary shall treat taxes  
2 levied by a merged school administrative unit described in G.S. 115C-513 in a part of  
3 the unit located in a county as taxes levied by the county in which that part is located.  
4 After making these allocations, the Secretary of Revenue shall certify to the State  
5 Controller and to the State Treasurer the amount to be distributed to each county and  
6 municipality in the State. The State Controller shall then issue a warrant on the State  
7 Treasurer to each county and municipality in the amount certified. ~~The amount based on~~  
8 ~~forty percent (40%) of the tax collected on accounts receivable shall be drawn from the Local~~  
9 ~~Government Tax Reimbursement Reserve and the amount based on the net amount of revenue~~  
10 ~~collected under this Article.~~ The funds shall be drawn from the Local Government Tax  
11 Sharing Reserve.

12 For the purpose of computing the distribution of the intangibles tax to any county  
13 and the municipalities located in the county for any year with respect to which the  
14 property valuation of a public service company is the subject of an appeal pursuant to  
15 the provisions of the Machinery Act, or to applicable provisions of federal law, and the  
16 Department of Revenue is restrained by operation of law or by a court of competent  
17 jurisdiction from certifying such valuation to the county and municipalities therein, the  
18 Department shall use the last property valuation of such public service company which  
19 has been so certified in order to determine the ad valorem tax levies applicable to such  
20 public service company in the county and the municipalities therein.

21 The ~~chairman~~ chair of each board of county commissioners and the mayor of each  
22 municipality shall report to the Secretary of Revenue information requested by the  
23 Secretary to enable the Secretary to allocate the amount appropriated by this section. If  
24 a county or municipality fails to make a requested report within the time allowed, the  
25 Secretary may disregard the county or municipality in allocating the amount  
26 appropriated by this section. The amount distributed to each county and municipality  
27 shall be used by the county or municipality in proportion to property tax levies made by  
28 it for the various funds and activities of the county or municipality, unless the county or  
29 municipality has pledged the amount to be distributed to it under this section in payment  
30 of a loan agreement with the North Carolina Solid Waste Management Capital Projects  
31 Financing Agency. A county or municipality that has pledged amounts distributed  
32 under this section in payment of a loan agreement with the Agency may apply the  
33 amount the loan agreement requires.

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

38 Sec. 7. G.S. 105-275.1(b) reads as rewritten:

39 "(b) Subsequent Distributions. – As soon as practicable after January 1, 1990, the  
40 Secretary shall pay to each county and city the amount it received under subsection (a)  
41 in 1989 plus an amount equal to the county or city average rate multiplied by the value  
42 of the items described in subdivisions (ii) and (iii) of subsection (a) that were required  
43 to be listed and assessed as of January 1, 1987, and were listed on or before September  
44 1, 1987, in the county or city, plus or minus the percentage of this product that equals

1 the percentage by which State personal income has increased or decreased during the  
2 most recent 12-month period for which State personal income data has been compiled  
3 by the Bureau of Economic Analysis of the United States Department of Commerce.  
4 As soon as practicable after January 1, 1990, the Secretary shall also pay to each county  
5 and city an amount equal to the average rate for each special district for which the  
6 county or city collected taxes in 1987, but whose tax rates were not included in the  
7 county or city's rates, multiplied by the value of the items described in subdivisions (ii)  
8 and (iii) of subsection (a) that were required to be listed and assessed as of January 1,  
9 1987, and were listed on or before September 1, 1987, in the district, plus or minus the  
10 percentage of this product that equals the percentage by which State personal income  
11 has increased or decreased during the most recent 12-month period for which State  
12 personal income data has been compiled by the Bureau of Economic Analysis of the  
13 United States Department of Commerce. As soon as practicable after January 1, 1991,  
14 except as provided in subsection (f), the Secretary shall pay to each county and city the  
15 amount it received under this section the preceding year plus an amount equal to the  
16 county or city average rate multiplied by the value of the items described in subdivision  
17 (v) of subsection (a) contained in the list submitted by the county or city, plus or minus  
18 the percentage of this product that equals the percentage by which State personal  
19 income has increased or decreased during the most recent 12-month period for which  
20 State personal income data has been compiled by the Bureau of Economic Analysis of  
21 the United States Department of Commerce. Thereafter, except as provided in  
22 subsection (f), ~~as soon as practicable after January 1~~ on or before April 30 of each year, the  
23 Secretary shall distribute to each county and city the amount it received under this  
24 section the preceding year.

25 Of the funds received by each county and city pursuant to this subsection in 1990,  
26 the portion that was received because the county or city was collecting taxes for a  
27 special district (either because the district's tax rate was included in the city or county's  
28 rate or because the Secretary paid the county or city the product of the district's average  
29 rate and the value of the inventories and other items in the district) shall be distributed  
30 among the districts in the county or city as soon as practicable after the city or county  
31 receives the funds. The county or city shall distribute to each special district in the  
32 county or city the amount it distributed to the district in 1989 plus an amount equal to  
33 the average rate for the district multiplied by the value of the items, other than  
34 inventory, described in subdivisions (ii) and (iii) of subsection (a) that were required to  
35 be listed and assessed as of January 1, 1987, and were listed on or before September 1,  
36 1987, in the district, plus or minus the percentage of this product that equals the  
37 percentage by which State personal income has increased or decreased during the most  
38 recent 12-month period for which State personal income data has been compiled by the  
39 Bureau of Economic Analysis of the United States Department of Commerce.

40 Each year thereafter, as soon as practicable after receiving funds under this  
41 subsection, every county and city shall distribute among the special districts for which  
42 the county or city collects tax an amount equal to the amount it distributed among such  
43 districts the previous year. The Local Government Commission may adopt rules for the  
44 resolution of disputes and correction of errors in the distribution among special districts

1 provided in this subsection. In addition, the Local Government Commission may adopt  
2 rules for the reallocation of funds when a special district is dissolved, merged, or  
3 consolidated, or when a special district ceases to levy tax, either temporarily or  
4 permanently."

5 Sec. 8. G.S. 105-277A(b), (c), (c1), and (c2) read as rewritten:

6 "(b) First Per Capita Distribution. – As soon as practicable after January 1 of  
7 1989, the Secretary shall distribute to each taxing unit the unit's per capita share of the  
8 sum of fifteen million seven hundred forty-five thousand dollars (\$15,745,000).  
9 Thereafter, as soon as practicable after January 1 of 1990 and 1991, the Secretary shall  
10 distribute to each taxing unit the unit's per capita share of an amount equal to the sum  
11 distributed to all taxing units the previous year under this subsection plus or minus the  
12 product of the sum distributed the previous year and the percentage by which State  
13 personal income has increased or decreased during the most recent 12-month period for  
14 which State personal income data has been compiled by the Bureau of Economic  
15 Analysis of the United States Department of Commerce.

16 Thereafter, ~~as soon as practicable after January 1~~ on or before April 30 of each year the  
17 Secretary shall distribute to each taxing unit the unit's per capita share of the sum that  
18 this subsection provided was to be distributed to all taxing units in 1991.

19 To make the per capita distributions required by this subsection, the Secretary shall  
20 first allocate the sum to be distributed among the counties on a per capita basis. The  
21 Secretary shall then compute a per capita distributable amount for each county by  
22 dividing the amount allocated to a county by the total population of the county, plus the  
23 population of any incorporated towns and cities located in the county. Each taxing unit  
24 in a county, including the county itself, shall receive the product of the population of the  
25 taxing unit and the per capita distributable amount for that county.

26 A city or county that receives funds under this subsection and that collects taxes for  
27 another taxing unit shall distribute part of the taxes received by it to the taxing unit for  
28 which it collects tax. The distribution shall be made on the basis of the proportionate  
29 amount of ad valorem taxes levied, for the most recent fiscal year beginning July 1, by  
30 the city or county and by all the taxing units for which the city or county collects tax.  
31 This distribution shall be made as soon as practicable after a city or county receives  
32 funds from the State under this section.

33 (c) Second Per Capita Distribution. – On or before March 20, 1989, the Secretary  
34 shall allocate to each county the county's per capita share of the sum of thirty-nine  
35 million dollars (\$39,000,000).

36 Each year thereafter, ~~as soon as practicable after January 1~~ on or before April 30, the  
37 Secretary of Revenue shall allocate to each county the amount it received the previous  
38 year under this subsection.

39 Amounts allocated to a county under this subsection shall in turn be divided and  
40 distributed between the county and the cities located in the county in proportion to the  
41 total amount of ad valorem taxes levied by each during the fiscal year preceding the  
42 distribution. For the purposes of this section, the amount of the ad valorem taxes levied  
43 by a county or city shall include any ad valorem taxes collected by the county or city in  
44 behalf of a special district. For the purpose of computing the distribution for any year

1 with respect to which the property valuation of a public service company is the subject  
2 of an appeal and the Department of Revenue is restrained by law from certifying the  
3 valuation to the appropriate counties and cities, the Department shall use the latest  
4 property valuation of that public service company that has been certified.

5 The governing body of each county and city shall report to the Secretary of Revenue  
6 such information as he may request in order to make the distribution under this  
7 subsection. If a county or city fails to make a requested report within the time  
8 prescribed, the Secretary may disregard that county or city and the other taxing units in  
9 the county or city in making the distribution.

10 (c1) Claims-based Distribution. – On or before March 20, 1989, the Secretary shall  
11 distribute to each county and city an amount equal to the amount by which the county or  
12 city's inventory loss, as defined in subsection (d) of this section, exceeds the amount of  
13 the reimbursement received by the county or city under subsection (c) of this  
14 subsection.

15 Except as provided in subsection (g) of this section, each year thereafter, ~~as soon as~~  
16 ~~practicable after January 1,~~ on or before April 30, the Secretary shall distribute to each  
17 county and city the amount it received the previous year under this subsection.

18 (c2) Supplemental Distribution. – On or before March 20, 1989, the Secretary  
19 shall determine, with respect to each county and city, whether the sum of (i) the amount  
20 the county or city received under subsection (c), plus (ii) the amount the county or city  
21 received under subsection (c1), plus (iii) three and four-tenths percent (3.4%) of the  
22 total distribution received by the county or city under G.S. 105-472, 105-486, 105-493,  
23 105-501, and Chapter 1096 of the 1967 Session Laws between January 1, 1988, and  
24 December 31, 1988, is less than ninety percent (90%) of the amount of taxes the county  
25 or city actually levied on inventories owned by retailers and wholesalers for the 1987-88  
26 tax year. If that sum is less than ninety percent (90%) of the amount of taxes the county  
27 or city actually levied on those inventories for the 1987-88 tax year, the Secretary shall  
28 distribute to that county or city a supplemental amount equal to the amount by which  
29 ninety percent (90%) of the taxes it actually levied on inventories owned by retailers  
30 and wholesalers for the 1987-88 tax year exceeds the total of subdivisions (i), (ii), and  
31 (iii).

32 Except as provided in subsection (g) of this section, each year thereafter, ~~as soon as~~  
33 ~~practicable after January 1,~~ on or before April 30, the Secretary shall distribute to each  
34 county and city the amount it received the previous year under this subsection."

35 Sec. 9. The Joint Select Fiscal Trends and Reform Commission created in  
36 Section 348 of Chapter 689 of the 1991 Session Laws shall continue to review the fiscal  
37 relationship between the State and its local governments by examining State and local  
38 government revenue sources and the allocation of responsibility among the State and its  
39 local governments for financing and performing government services. As provided in  
40 Chapter 689 of the 1991 Session Laws, the Commission shall examine:

- 41 (1) Whether local government tax sharing and local government tax  
42 reimbursements should be financed by appropriation or by earmarking.
- 43 (2) Whether the State should provide local governments with additional  
44 revenue options.

- 1           (3)    Whether a more adequate and dependable means of financing State  
2           and local government services should be devised.
- 3           (4)    Whether State and local responsibilities for providing government  
4           services should be reallocated.
- 5           (5)    How the fiscal relationship between the State and local governments,  
6           particularly the lack of uniform tax rates that results from local option  
7           taxes, affects economic development.
- 8           (6)    The effectiveness of the Local Government Fiscal Information Act,  
9           Article 6D of Chapter 120 of the General Statutes.
- 10          (7)    How the timing of the State's budget process affects the ability of local  
11          governments to comply with the deadlines imposed in the Local  
12          Government Budget and Fiscal Control Act.
- 13          The Joint Select Fiscal Trends and Reform Commission shall provide for a  
14          thorough review of these topics by a subcommittee appointed by the cochairs of the  
15          Commission. The results of the subcommittee's study, including its recommendations,  
16          shall be studied in detail by the full Commission. The Commission shall include a  
17          report of its study of these issues and its recommendations in its final report to the 1993  
18          General Assembly pursuant to Section 348(c) of Chapter 689 of the 1991 Session Laws.
- 19          Sec. 10. This act becomes effective July 1, 1992.