

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 1991

CHAPTER 993  
HOUSE BILL 916

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:

"(e) Source of Funds. – To pay for the distribution required by this section and the cost to the Department of Revenue of making the distribution, 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 distributed and the cost of making the distribution."

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

"(f) Source of Funds. – To pay for the distribution required by this section and the cost of making the distribution, the Secretary 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 distributed and the cost of making the distribution."

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

"(f) In order to pay for the reimbursement under this section and the cost to the Department of Revenue of 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 reimbursement and the cost of administration."

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

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

(a) ~~Appropriation. Reimbursement for Repeal of Tax on Money on Deposit, Money on Hand, and Funds on Deposit with Insurance Companies. – On or before August 30 of each year, the Secretary of Revenue shall allocate for distribution to each county and the municipalities in the county the amount allocated to the county under this subsection in 1990. 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, by August 30 of 1987, 1988, 1989, and 1990, 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.~~

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

Amounts allocated to a county under this ~~section~~ subsection 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.

(a1) Reimbursement for Partial Repeal of Tax on Accounts Receivable. – On or before August 30 of each year, the Secretary of Revenue shall distribute to counties and municipalities an amount equal to forty percent (40%) of the tax collected on accounts receivable during the 1989-90 fiscal year. The Secretary of Revenue shall first allocate the amount to be distributed in this subsection to the counties in the same manner as the amount allocated in G.S. 105-213. The amount allocated to each county 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.~~ collections received under Division I of Article 4 of this Chapter."

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

**"§ 105-213. 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 1989-90 fiscal year, ~~plus an amount equal to forty percent (40%) of the tax collected on accounts receivable during the 1989-90 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.
- (6) The personnel and operations provided by the Department of State Treasurer for the Local Government Commission.

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

The appropriation shall be allocated among the counties in proportion to the amount of taxes collected under this Article in each county during the preceding fiscal year. The Secretary of Revenue shall keep a separate record by counties of the taxes collected under this Article. The Secretary shall allocate the amount appropriated under this section to the counties according to the county in which the taxes were collected. The amounts so allocated to each county shall in turn be allocated between the county and the municipalities in the county in proportion to the total amount of ad valorem taxes levied by each during the fiscal year preceding the distribution. In dividing these amounts between each county and its municipalities, the Secretary shall treat taxes levied by a merged school administrative unit described in G.S. 115C-513 in a part of the unit located in a county as taxes levied by the county in which that part is located. After making these allocations, the Secretary of Revenue shall certify to the State Controller and to the State Treasurer the amount to be distributed to each county and municipality in the State. The State Controller shall then issue a warrant on the State Treasurer to each county and municipality in the amount certified. ~~The amount based on forty percent (40%) of the tax collected on accounts receivable shall be drawn from the Local Government Tax Reimbursement Reserve and the amount based on the net~~

~~amount of revenue collected under this Article.~~ The funds shall be drawn from the Local Government Tax Sharing Reserve.

For the purpose of computing the distribution of the intangibles tax to any county and the municipalities located 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.

The ~~chairman~~ chair of each board of county commissioners and the mayor of each municipality shall report to the Secretary of Revenue information requested by the Secretary to enable the Secretary to allocate the amount appropriated by this section. If a county or municipality fails to make a requested report within the time allowed, the Secretary may disregard the county or municipality in allocating the amount appropriated by this section. The amount distributed to each county and municipality shall be used by the county or municipality in proportion to property tax levies made by it for the various funds and activities of the 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. 7. G.S. 105-275.1(b) reads as rewritten:

"(b) Subsequent Distributions. – As soon as practicable after January 1, 1990, the Secretary shall pay to each county and city the amount it received under subsection (a) in 1989 plus an amount equal to the county or city average rate multiplied by the value of the items described in subdivisions (ii) and (iii) of subsection (a) that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the county or city, plus or minus the percentage of this product that equals the percentage by which State 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. As soon as practicable after January 1, 1990, the Secretary shall also pay to each county and city an amount equal to the average rate for each special district for which the county or city collected taxes in 1987, but whose tax rates were not included in the county or city's rates, multiplied by the value of the items described in subdivisions (ii) and (iii) of subsection (a) that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the district, plus or minus the

percentage of this product that equals the percentage by which State 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. As soon as practicable after January 1, 1991, except as provided in subsection (f), the Secretary shall pay to each county and city the amount it received under this section the preceding year plus an amount equal to the county or city average rate multiplied by the value of the items described in subdivision (v) of subsection (a) contained in the list submitted by the county or city, plus or minus the percentage of this product that equals the percentage by which State 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, except as provided in subsection (f), ~~as soon as practicable after January 1~~ on or before April 30 of each year, the Secretary shall distribute to each county and city the amount it received under this section the preceding year.

Of the funds received by each county and city pursuant to this subsection in 1990, the portion that was received because the county or city was collecting taxes for a special district (either because the district's tax rate was included in the city or county's rate or because the Secretary paid the county or city the product of the district's average rate and the value of the inventories and other items in the district) shall be distributed among the districts in the county or city as soon as practicable after the city or county receives the funds. The county or city shall distribute to each special district in the county or city the amount it distributed to the district in 1989 plus an amount equal to the average rate for the district multiplied by the value of the items, other than inventory, described in subdivisions (ii) and (iii) of subsection (a) that were required to be listed and assessed as of January 1, 1987, and were listed on or before September 1, 1987, in the district, plus or minus the percentage of this product that equals the percentage by which State 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.

Each year thereafter, as soon as practicable after receiving funds under this subsection, every county and city shall distribute among the special districts for which the county or city collects tax an amount equal to the amount it distributed among such districts the previous year. The Local Government Commission may adopt rules for the resolution of disputes and correction of errors in the distribution among special districts provided in this subsection. In addition, the Local Government Commission may adopt rules for the reallocation of funds when a special district is dissolved, merged, or consolidated, or when a special district ceases to levy tax, either temporarily or permanently."

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

"(b) First Per Capita Distribution. – As soon as practicable after January 1 of 1989, the Secretary shall distribute to each taxing unit the unit's per capita share of the sum of fifteen million seven hundred forty-five thousand dollars (\$15,745,000). Thereafter, as soon as practicable after January 1 of 1990 and 1991, the Secretary shall

distribute to each taxing unit the unit's per capita share of an amount equal to the sum distributed to all taxing units the previous year under this subsection plus or minus the product of the sum distributed the previous year and the percentage by which State 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 January 1~~ on or before April 30 of each year the Secretary shall distribute to each taxing unit the unit's per capita share of the sum that this subsection provided was to be distributed to all taxing units in 1991.

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

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

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

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

Amounts allocated to a county under this subsection shall in turn be divided and distributed between the county and the cities located in the county in proportion to the total amount of ad valorem taxes levied by each during the fiscal year preceding the distribution. For the purposes of this section, the amount of the ad valorem taxes levied by a county or city shall include any ad valorem taxes collected by the county or city in behalf of a special district. For the purpose of computing the distribution for any year with respect to which the property valuation of a public service company is the subject of an appeal and the Department of Revenue is restrained by law from certifying the valuation to the appropriate counties and cities, the Department shall use the latest property valuation of that public service company that has been certified.

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

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

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

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

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

Sec. 9. The Joint Select Fiscal Trends and Reform Commission created in Section 348 of Chapter 689 of the 1991 Session Laws shall continue to review the fiscal relationship between the State and its local governments by examining State and local government revenue sources and the allocation of responsibility among the State and its local governments for financing and performing government services. In its work pursuant to this section, the Commission shall examine:

- (1) How the timing of the State's budget process affects the ability of local governments to comply with the deadlines imposed in the Local Government Budget and Fiscal Control Act, and whether local governments' fiscal year should be changed to begin on October 1 rather than July 1.
- (2) Proposed methods for making local governments more self-reliant, including:
  - a. Whether the State should provide local governments with additional revenue options.
  - b. Whether State and local responsibilities for providing government services should be reallocated.
- (3) Whether local government tax-sharing distributions should be financed by appropriation or by earmarking.

- (4) Whether a more adequate and dependable means of financing State and local government services should be devised.
- (5) The impact of the repeal of the property tax on inventories upon local government revenues, including the impact upon economic development.
- (6) How the fiscal relationship between the State and local governments, particularly the lack of uniform tax rates that results from local option taxes, affects economic development.
- (7) The effectiveness of the Local Government Fiscal Information Act, Article 6D of Chapter 120 of the General Statutes.

The Joint Select Fiscal Trends and Reform Commission shall provide for a thorough review of these topics by a subcommittee appointed by the cochairs of the Commission. The results of the subcommittee's study, including its recommendations, shall be studied in detail by the full Commission. The Commission shall include a report of its study of these issues and its recommendations in its final report to the 1993 General Assembly pursuant to Section 348(c) of Chapter 689 of the 1991 Session Laws.

Sec. 10. The amount appropriated to the Reserve for Reimbursements to Local Governments and Shared Tax Revenues for the 1992-93 fiscal year in Section 3 of Chapter 689 of the 1991 Session Laws is reduced by the sum of two hundred thirty-seven million seven hundred eighty-two thousand twenty dollars (\$237,782,020).

Sec. 11. G.S. 143-15.1 reads as rewritten:

**"§ 143-15.1. (Effective beginning with the 1992-93 budget) Current Operations Appropriations Act.**

The General Assembly shall enact the Current Operations Appropriations Act by June 15 of odd-numbered years and by June 30 of even-numbered years in which a Current Operations Appropriations Act is enacted. The Current Operations Appropriations Act shall state the amount of General Fund appropriations availability upon which the General Fund budget is based. The statement of availability shall list separately the beginning General Fund credit balance, General Fund revenues, and any other components of the availability amount.

The General Fund operating budget appropriations, including appropriations for ~~local tax reimbursements and~~ local tax sharing, for the second year in a Current Operations Appropriations Act that contains a biennial budget shall not be more than two percent (2%) greater than the General Fund operating budget appropriations for the first year of the biennial budget."

Sec. 12. G.S. 143-15.2, as amended by Chapter 812 of the 1991 Session Laws, reads as rewritten:

**"§ 143-15.2. Use of General Fund credit balance.**

The State Controller shall reserve up to one-fourth of any credit balance, as determined on a cash basis, remaining in the General Fund at the end of each fiscal year to the Savings Reserve Account as provided in G.S. 143-15.3, unless that would result in the Savings Reserve Account having funds in excess of five percent (5%) of the amount appropriated the preceding year for the General Fund operating budget, including ~~local government tax reimbursements and~~ local government tax-sharing



funds; in that case, only funds sufficient to reach the five percent (5%) level shall be reserved. The General Assembly may appropriate that part of the anticipated General Fund credit balance not expected to be reserved to the Savings Reserve Account only for capital improvements or other one-time expenditures."

Sec. 13. G.S. 143-15.3(a), as amended by Chapter 812 of the 1991 Session Laws, reads as rewritten:

"(a) There is established a Savings Reserve Account as a restricted reserve in the General Fund. The State Controller shall reserve to the Savings Reserve Account one-fourth of any unreserved credit balance remaining in the General Fund at the end of each fiscal year until the account contains funds equal to five percent (5%) of the amount appropriated the preceding year for the General Fund operating budget, including ~~local government tax reimbursements and~~ local government tax-sharing funds. If the balance in the Savings Reserve Account falls below this level during a fiscal year, the State Controller shall reserve to the Savings Reserve Account for the following fiscal years up to one-fourth of any unreserved credit balance remaining in the General Fund at the end of each fiscal year until the account again equals five percent (5%) of the amount appropriated the preceding year for the General Fund operating budget, including ~~local government tax reimbursements and~~ local government tax-sharing funds. As used in this section, the term 'unreserved credit balance' means that part of the credit balance, as determined on a cash basis, not already reserved to the Savings Reserve Account."

Sec. 14. G.S. 143-15.4(a) reads as rewritten:

"(a) Size Limitation. Except as otherwise provided in this section, the General Fund operating budget each fiscal year shall not be greater than seven percent (7%) of the projected total State personal income for that fiscal year. For the purpose of this section, the General Fund operating budget includes any appropriations for ~~local tax reimbursements and~~ local tax-sharing, but does not include appropriations for (i) capital expenditures or (ii) one-time expenditures due to natural disasters, federal mandates, or other emergencies."

Sec. 15. This act becomes effective July 1, 1992, except that Section 14 becomes effective beginning with the 1993-94 General Fund operating budget.

In the General Assembly read three times and ratified this the 20th day of July, 1992.

Henson P. Barnes  
President Pro Tempore of the Senate

Daniel Blue, Jr.  
Speaker of the House of Representatives