

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

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SENATE BILL 34\*

Short Title: Adjust City Receipts Tax Share.

(Public)

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Sponsors: Senators Cochrane, Cooper, Kerr, Shaw of Cumberland, and Soles.

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Referred to: Finance.

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February 3, 1997

A BILL TO BE ENTITLED

AN ACT TO ADJUST THE SHARE THE CITIES RECEIVE FROM THE STATE  
GROSS RECEIPTS TAX TO MAKE THE DISTRIBUTION MORE EQUITABLE.

The General Assembly of North Carolina enacts:

Section 1. Article 3 of Chapter 105 of the General Statutes is amended by adding a new section to read:

**"§ 105-116.1. Distribution of gross receipts taxes to cities.**

(a) Distribution. – The Secretary shall distribute to the cities part of the taxes collected under this Article on electric power companies, natural gas companies, and telephone companies. Each city's share for a calendar quarter is the percentage distribution amount for that city minus one-fourth of the hold-back amount for that city. The Secretary shall make the distribution within 75 days after the end of each calendar quarter.

(b) Percentage Amount. – The percentage distribution amount for a city is three and nine hundredths percent (3.09%) of the gross receipts derived during the preceding quarter by an electric power company, a natural gas company, or a telephone company from sales within the city that are taxable under G.S. 105-116 or G.S. 105-120.

(c) Hold-back Amount. – The hold-back amount reflects the amount of growth in the gross receipts taxes that occurred during the 1991-92 through 1994-95 fiscal years, the 'freeze' years. The total amount distributed to cities during that period was fixed at

1 the total amount that would have been distributed during the 1990-91 fiscal year if the  
2 Governor had not reduced the distribution for that year as part of the effort to balance the  
3 State budget. During the freeze years, cities received a part of the fixed amount based on  
4 taxable sales within the cities. For the 1995-96 fiscal year and subsequent years, the limit  
5 on the amount distributed was removed and the distribution reverted to its prior  
6 percentage basis with the added requirement of deducting the growth that occurred in the  
7 freeze years.

8 The hold-back amount for a city is determined by comparing the amount each city  
9 received from gross receipts taxes in the 1995-96 fiscal year and in the 1990-91 fiscal  
10 year and then adjusting that amount, if required, in accordance with this subsection. If, in  
11 the 1995-96 fiscal year, a city received at least ninety-five percent (95%) of the amount it  
12 received in the 1990-91 fiscal year, the hold-back amount for that city is the amount by  
13 which the city's 1995-96 percentage distribution amount was reduced. If, in the 1995-96  
14 fiscal year, a city received less than ninety-five percent (95%) of the amount it received  
15 in the 1990-91 fiscal year, the hold-back amount for that city is the amount determined by  
16 the following calculation:

- 17 (1) Increase the city's 1990-91 distribution by adding the amount by which  
18 the city's 1995-96 percentage distribution amount was reduced.
- 19 (2) Compare the increased 1990-91 amount with the city's 1995-96  
20 distribution.
- 21 (3) If the increased 1990-91 distribution is less than or equal to the city's  
22 1995-96 distribution, the hold-back amount for the city is the amount by  
23 which the city's 1995-96 distribution amount was reduced.
- 24 (4) If the increased 1990-91 distribution is more than the city's 1995-96  
25 distribution, the hold-back amount for the city is the difference between  
26 the increased 1990-91 distribution and the 1995-96 distribution."

27 Section 2. G.S. 105-116 reads as rewritten:

28 **"§ 105-116. Franchise or privilege tax on electric power, natural gas, water, and**  
29 **sewerage companies.**

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

- 32 (1) An electric power company engaged in the business of furnishing  
33 electricity, electric lights, current, or power.
- 34 (2) A natural gas company engaged in the business of furnishing piped  
35 natural gas.
- 36 (3) A water company engaged in owning or operating a water system  
37 subject to regulation by the North Carolina Utilities Commission.
- 38 (4) A public sewerage company engaged in owning or operating a public  
39 sewerage system.

40 The tax on an electric power company is three and twenty-two hundredths percent  
41 (3.22%) of the company's taxable gross receipts from the business of furnishing  
42 electricity, electric lights, current, or power. The tax on a natural gas company is three  
43 and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from

1 the business of furnishing piped natural gas. The tax on a water company is four percent  
2 (4%) of the company's taxable gross receipts from owning or operating a water system  
3 subject to regulation by the North Carolina Utilities Commission. The tax on a public  
4 sewerage company is six percent (6%) of the company's taxable gross receipts from  
5 owning or operating a public sewerage company. A company's taxable gross receipts are  
6 its gross receipts from business inside the State less the amount of gross receipts from  
7 sales reported under subdivision (b)(2). A company that engages in more than one  
8 business taxed under this section shall pay tax on each business. A company is allowed a  
9 credit against the tax imposed by this section for the company's investments in certain  
10 entities in accordance with Division V of Article 4 of this Chapter.

11 (b) Report and Payment. – The tax imposed by this section is payable monthly or  
12 quarterly as specified in this subsection. A report is due quarterly. An electric power  
13 company or a natural gas company shall pay tax monthly. A monthly tax payment is due  
14 by the last day of the month that follows the month in which the tax accrues, except the  
15 payment for tax that accrues in May. The payment for tax that accrues in May is due by  
16 June 25. An electric power company or a natural gas company is not subject to interest on  
17 or penalties for an underpayment of a monthly amount due if the company timely pays at  
18 least ninety-five percent (95%) of the amount due and includes the underpayment with  
19 the next report the company files. A water company or a public sewerage company shall  
20 pay tax quarterly when filing a report.

21 A quarterly report covers a calendar quarter and is due by the last day of the month  
22 that follows the quarter covered by the report. A company shall submit a report on a form  
23 provided by the Secretary. The report shall include the company's gross receipts from all  
24 property it owned or operated during the reporting period in connection with its business  
25 taxed under this section and shall contain the following information:

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

39 A company shall report its gross receipts on an accrual basis. If a company's report does  
40 not state the company's taxable gross receipts derived within a city, the Secretary must  
41 determine a practical method of allocating part of the company's taxable gross receipts to  
42 the city.

1 (c) Gas Special Charges. – Gross receipts of a natural gas company do not include  
2 the following:

3 (1) Special charges collected within this State by the company pursuant to  
4 drilling and exploration surcharges approved by the North Carolina  
5 Utilities Commission, if the surcharges are segregated from the other  
6 receipts of the company and are devoted to drilling, exploration, and  
7 other means to acquire additional supplies of natural gas for the account  
8 of natural gas customers in North Carolina and the beneficial interest in  
9 the surcharge collections is preserved for the natural gas customers  
10 paying the surcharges under rules established by the Commission.

11 (2) Natural gas expansion surcharges imposed under G.S. 62-158.

12 (d) ~~Distribution. – For the purpose of this subsection, the term "distribution~~  
13 ~~amount" means three and nine hundredths percent (3.09%) of the taxable gross receipts~~  
14 ~~derived during a period by an electric power company and a natural gas company from~~  
15 ~~sales within a municipality of the commodities and services described in subsection (a) of~~  
16 ~~this section. The Secretary shall distribute to each municipality the distribution amount~~  
17 ~~for that municipality for the preceding calendar quarter less an amount equal to one-~~  
18 ~~fourth of the excess of the distribution amount for that municipality for the period April~~  
19 ~~1, 1994, to March 31, 1995, over the distribution amount for that municipality for the~~  
20 ~~period April 1, 1990, to March 31, 1991, as certified by the Secretary. The Secretary~~  
21 ~~shall distribute the revenue within 75 days after the end of each quarter. If a company's~~  
22 ~~report does not state the company's taxable gross receipts derived within a municipality,~~  
23 ~~the Secretary shall determine a practical method of allocating part of the company's~~  
24 ~~taxable gross receipts to the municipality.~~

25 ~~As used in this subsection, the term "municipality" includes an urban service district~~  
26 ~~defined by the governing board of a consolidated city-county. The amount due an urban~~  
27 ~~service district shall be distributed to the governing board of the consolidated city-county.~~  
28 Part of the taxes imposed by this section on electric power companies and natural gas  
29 companies is distributed to cities under G.S. 105-116.1.

30 (e) Local Tax. – So long as there is a distribution to municipalities of the amount  
31 ~~herein provided~~ cities from the tax imposed by this section, no ~~municipality~~ city shall  
32 impose or collect any greater franchise, privilege or license taxes, in the aggregate, on the  
33 businesses taxed under this section, than was imposed and collected on or before January  
34 1, 1947. If any municipality shall have collected any privilege, license or franchise tax  
35 between January 1, 1947, and April 1, 1949, in excess of the tax collected by it prior to  
36 January 1, 1947, then upon distribution of the taxes imposed by this section to  
37 municipalities, the amount distributable to any municipality shall be credited with such  
38 excess payment."

39 Section 3. G.S. 105-120 reads as rewritten:

40 "**§ 105-120. Franchise or privilege tax on telephone companies.**

41 (a) Tax. – An annual franchise or privilege tax is imposed on a person, firm, or  
42 corporation, that owns or operates a business entity for the provision of local  
43 telecommunications service. The tax is three and twenty-two hundredths percent (3.22%)

1 of the company's taxable gross receipts. A company's taxable gross receipts are its  
2 receipts from providing local telecommunications service, including receipts from rentals  
3 and other similar charges, less its receipts from telecommunications access charges. A  
4 company is allowed a credit against the tax imposed by this section for the company's  
5 investments in certain entities in accordance with Division V of Article 4 of this Chapter.

6 (b) Report and Payment. – The tax imposed by this section is payable monthly or  
7 quarterly as specified in this subsection. A report is due quarterly. A company that is  
8 liable for an average of less than three thousand dollars (\$3,000) a month in tax imposed  
9 by this section may, with the approval of the Secretary of Revenue, pay tax quarterly  
10 when filing a report. All other companies shall pay tax monthly. A monthly tax payment  
11 is due by the last day of the month that follows the month in which the tax accrues,  
12 except the payment for tax that accrues in May. The payment for tax that accrues in May  
13 is due by June 25. A company is not subject to interest on or penalties for an  
14 underpayment of a monthly amount due if the company timely pays at least ninety-five  
15 percent (95%) of the amount due and includes the underpayment with the next report the  
16 company files.

17 A quarterly report covers a calendar quarter and is due by the last day of the month  
18 that follows the quarter covered by the report. A company shall submit a report on a  
19 form provided by the Secretary. The report shall state the company's gross receipts for  
20 the reporting period from providing local telecommunications service and from providing  
21 local telecommunications service within each ~~municipality~~-city served. If a company's  
22 report does not state the company's taxable gross receipts derived within a city, the  
23 Secretary must determine a practical method of allocating part of the company's taxable  
24 gross receipts to the city. A company shall report its gross receipts on an accrual basis.

25 (c) Distribution. – ~~For the purpose of this subsection, the term "distribution~~  
26 ~~amount" means three and nine hundredths percent (3.09%) of the taxable gross receipts~~  
27 ~~derived during a period from local telecommunications service provided within a~~  
28 ~~municipality. The Secretary shall distribute to each municipality the distribution amount~~  
29 ~~for that municipality for the preceding calendar quarter less an amount equal to one-~~  
30 ~~fourth of the excess of the distribution amount for that municipality for the period April~~  
31 ~~1, 1994, to March 31, 1995, over the distribution amount for that municipality for the~~  
32 ~~period April 1, 1990, to March 31, 1991, as certified by the Secretary. The Secretary~~  
33 ~~shall distribute the revenue within 75 days after the end of each quarter. If a company's~~  
34 ~~report does not state the company's taxable gross receipts derived within a municipality,~~  
35 ~~the Secretary shall determine a practical method of allocating part of the company's~~  
36 ~~taxable gross receipts to the municipality.~~

37 ~~As used in this subsection, the term "municipality" includes an urban service district~~  
38 ~~defined by the governing board of a consolidated city-county. The amount due an urban~~  
39 ~~service district shall be distributed to the governing board of the consolidated city-county.~~  
40 Part of the tax imposed by this section is distributed to cities under G.S. 105-116.1.

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

43 (e) Definitions. – For purposes of this section:

- 1 (1) 'Local telecommunications service' means telecommunications service  
2 provided wholly within a LATA entitling the user to access to a local  
3 telephone exchange for the privilege of telephonic quality  
4 communication with substantially all persons in the local telephone  
5 exchange. Provided, however, local telecommunications service does  
6 not include intraLATA or interLATA toll telecommunications service,  
7 or private telecommunications service.
- 8 (2) 'LATA' is a Local Access and Transport Area representing a  
9 geographical area comprising one or more telephone exchange areas.
- 10 (3) 'InterLATA telecommunications' is telecommunications service  
11 provided between two or more LATAs.
- 12 (4) 'Toll telecommunications service' means:  
13 a. A telephonic quality communication for which:  
14 1. There is a toll charge that varies in amount with the  
15 distance and elapsed transmission time of each individual  
16 communication; and  
17 2. The charge is paid within the United States.  
18 b. A service that entitles the subscriber, upon payment of a periodic  
19 charge (determined as a flat amount or upon the basis of total  
20 elapsed transmission time), to the privilege of an unlimited  
21 number of telephonic communications to or from all or a  
22 substantial portion of the persons having telephone or  
23 radiotelephone stations in a specified area that is outside the local  
24 telephone exchange.
- 25 (5) 'Private telecommunications service' means a service furnished to a  
26 subscriber that entitles the subscriber to exclusive or priority use of a  
27 communications channel or group of channels.
- 28 (6) 'Telecommunications access charges' means charges paid to a provider  
29 of local telecommunications service for access to an interconnection  
30 with the local telephone exchange."

31 Section 4. If the hold-back amount of a city is adjusted under G.S. 105-  
32 116.1(c), as enacted by this act, the Secretary must distribute two times the amount of the  
33 adjustment to the city by July 15, 1997. This distribution is made to restore to the  
34 affected cities the amount by which their hold-back would have been reduced if the  
35 adjustment had been in effect since the 1995-96 fiscal year. The amount needed to make  
36 the distribution required by this section shall be drawn from the amount of gross receipts  
37 taxes imposed by G.S. 105-116 and otherwise retained by the State.

38 Section 5. This act is effective when it becomes law.