

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1997

H

4

HOUSE BILL 495
Committee Substitute Favorable 5/21/97
Senate Finance Committee Substitute Adopted 7/28/97
Fourth Edition Engrossed 7/31/97

Short Title: Natural Gas.

(Public)

Sponsors:

Referred to:

March 11, 1997

A BILL TO BE ENTITLED
AN ACT TO ADDRESS NORTH CAROLINA'S URGENT INFRASTRUCTURE
NEEDS BY CLARIFYING THAT THE NORTH CAROLINA UTILITIES
COMMISSION MAY ESTABLISH DIFFERENT RATES FOR NATURAL GAS
SERVICE TO UNSERVED COUNTIES THAT REFLECT THE COST OF
PROVIDING SERVICE TO THE UNSERVED COUNTIES AND AUTHORIZING
THE CREATION OF NATURAL GAS DISTRICTS FOR NATURAL GAS
EXPANSION.

The General Assembly of North Carolina enacts:

PART I.
DIFFERENT RATES

Section 1. G.S. 62-140(a) reads as rewritten:

"(a) No public utility shall, as to rates or services, make or grant any unreasonable preference or advantage to any person or subject any person to any unreasonable prejudice or disadvantage. No public utility shall establish or maintain any unreasonable difference as to rates or services either as between localities or as between classes of service. The Commission may determine any questions of fact arising under this section;

1 provided that it shall not be an unreasonable preference or advantage or constitute
2 discrimination against any person, firm or corporation or general rate payer for telephone
3 utilities to contract with motels, hotels and hospitals to pay reasonable commissions in
4 connection with the handling of intrastate toll calls charged to a guest or patient and
5 collected by the motel, hotel or hospital; provided further, that payment of such
6 commissions shall be in accordance with uniform tariffs which shall be subject to the
7 approval of the Commission. Provided further, that it shall not be considered an
8 unreasonable preference or advantage for the Commission to order, if it finds the public
9 interest so requires, a reduction in local telephone rates for low-income residential
10 consumers meeting a means test established by the Commission in order to match any
11 reduction in the interstate subscriber line charge authorized by the Federal
12 Communications Commission.

13 Nothing in this section prohibits the Commission from establishing different rates for
14 natural gas service to counties that are substantially unserved, to the extent that those
15 rates reflect the cost of providing service to the unserved counties and upon a finding by
16 the Commission that natural gas service would not otherwise become available to the
17 counties."

18 **PART II.**
19 **NATURAL GAS DISTRICTS**

20 Section 2. Chapter 160A of the General Statutes is amended by adding a new
21 Article to read:

22 **"ARTICLE 28.**
23 **"REGIONAL NATURAL GAS DISTRICT.**

24 **"§ 160A-660. Title.**

25 This Article is the 'Regional Natural Gas District Act' and may be cited by that name.

26 **"§ 160A-661. Purpose; definitions.**

27 (a) The purpose of a district created under this Article is to enhance the quality of
28 life in its territorial jurisdiction by promoting the development of natural gas systems to
29 enhance the economic development of the area.

30 (b) The following definitions apply in this Article:

31 (1) Board of Trustees. – The governing board of the district in which the
32 general legislative powers of the district are vested.

33 (2) District. – A regional natural gas district.

34 (3) Natural gas system. – A gas production, storage, transmission and
35 distribution system, or any part or parts thereof.

36 (4) Regional natural gas district. – A public body and body politic and
37 corporate of the State of North Carolina organized in accordance with
38 the provisions of this Article exercising public and essential
39 governmental functions to provide for the preservation and promotion of
40 the public welfare for the purposes, with the powers, and subject to the
41 restrictions set forth in this Article.

42 (5) Unit of local government. – Any county, city, town, or municipality of
43 this State, and any other political subdivision, public corporation, or

1 district in this State, that is or may be authorized by law to acquire,
2 establish, construct, enlarge, improve, maintain, own, or operate natural
3 gas systems.

4 (6) Unit of local government's chief administrative official. – The county
5 manager, city manager, town manager, or other person, by whatever
6 title known, in whom the responsibility for the unit of local
7 government's administrative duties is vested.

8 **"§ 160A-662. Territorial jurisdiction and service area of district.**

9 (a) A district may be created for one or more entire counties that are totally
10 unserved with natural gas and in which a specific natural gas project has not been
11 approved by the Utilities Commission at the time of creation of the district. A letter from
12 the Utilities Commission to this effect shall conclusively establish that the area is totally
13 unserved and that a project has not been approved. This area is the territorial jurisdiction
14 and the service area of the district.

15 (b) The creation of a district does not confer on the district the exclusive right to
16 provide natural gas service in that territorial jurisdiction.

17 **"§ 160A-663. Creation of district.**

18 (a) The boards of commissioners of any one or more counties within an area for
19 which a district may be created as provided by G.S. 160A-662, and the governing body of
20 any city geographically located within one or more of these counties and that chooses to
21 join in the organization of a district, may by resolution signify their determination to
22 organize a district under the provisions of this Article. Each of these resolutions shall be
23 adopted after a public hearing thereon, notice of which hearing shall be given by
24 publication at least once, not less than 10 days prior to the date fixed for the hearing, in a
25 newspaper having a general circulation in the county. The notice shall contain a brief
26 statement of the substance of the proposed resolution, shall set forth the proposed articles
27 of incorporation of the district, and shall state the time and place of the public hearing. A
28 copy of the notice shall be mailed not later than the first day of newspaper publication to
29 the business office of any public utility that holds a franchise from the North Carolina
30 Utilities Commission to serve any part of the proposed district with natural gas service.
31 No county or city shall be required to make any other publication of the resolution under
32 the provisions of any other law.

33 (b) Each resolution shall include articles of incorporation which shall set forth all
34 of the following:

35 (1) The name of the district.

36 (2) The composition of the board of trustees, terms of office, and the
37 manner of making appointments and filling vacancies.

38 (3) A statement that the district is organized under this Article.

39 (4) The names of the organizing counties and cities.

40 (5) Provision for the distribution of assets in the event the district is
41 terminated.

42 (c) A certified copy of each of the resolutions signifying the determination to
43 organize a district under the provisions of this Article shall be filed with the Secretary of

1 State, together with proof of publication and mailing of the notice of hearing on each of
2 the resolutions. If the Secretary of State finds that the resolutions, including the articles
3 of incorporation, conform to the provisions of this Article and that the notices of hearing
4 were properly published and mailed, the Secretary of State shall file the resolutions and
5 proofs of publication and mailing, shall issue a certificate of incorporation under the seal
6 of the State, and shall record the certificate in an appropriate book of record. The
7 issuance of this certificate of incorporation by the Secretary of State shall constitute the
8 district a public body and body politic and corporate of the State of North Carolina. The
9 certificate of incorporation shall be conclusive evidence of the fact that the district has
10 been duly created and established under this Article.

11 (d) When the district has been duly organized and its officers elected, the secretary
12 of the district shall certify to the Secretary of State the names and addresses of the
13 officers, the name and address of the registered agent, and the address of the principal
14 office of the district. The district shall be subject to the provisions of Article 5 of Chapter
15 55A of the General Statutes.

16 **"§ 160A-664. Membership; officers; compensation.**

17 (a) The governing body of a district is the Board of Trustees. The Board of
18 Trustees shall consist of members as provided in the articles of incorporation.

19 (b) Service on the Board of Trustees may be in addition to any other office which
20 a person is entitled to hold. Each voting member of the Board of Trustees may hold
21 elective public office as defined by G.S. 128-1.1(d).

22 (c) Members of the Board of Trustees shall reside within the territorial jurisdiction
23 of the district as defined by G.S. 160A-662.

24 (d) The Board of Trustees shall annually elect from its membership a Chair and a
25 Vice-Chair and shall annually elect a Secretary and a Treasurer.

26 (e) Members of the Board of Trustees shall receive a sum not to exceed fifty
27 dollars (\$50.00) as compensation for attendance at each duly conducted meeting of the
28 district.

29 **"§ 160A-665. Quorum.**

30 A majority of the members of the Board of Trustees shall constitute a quorum for the
31 transaction of business.

32 **"§ 160A-666. Advisory committees.**

33 The Board of Trustees may provide for the selection of any advisory committees that
34 it finds appropriate, which may or may not include members of the Board of Trustees.

35 **"§ 160A-667. General powers of the district.**

36 The general powers of the district include all of the following:

37 (1) To sue and be sued.

38 (2) To have a seal.

39 (3) To make rules not inconsistent with this Article, for its organization and
40 internal management.

41 (4) To employ persons deemed necessary to carry out the functions and
42 duties assigned to them by the district and to fix their compensation,
43 within the limit of available funds.

- 1 (5) With the approval of the unit of local government's chief administrative
2 official, to use officers, employees, agents, and facilities of the unit of
3 local government for such purposes and upon such terms as may be
4 mutually agreeable.
- 5 (6) To retain and employ counsel, auditors, engineers, and private
6 consultants on an annual salary, contract basis, or otherwise for
7 rendering professional or technical services and advice.
- 8 (7) To acquire, lease as lessee with or without option to purchase, hold,
9 own, and use any franchise, property, real or personal, tangible or
10 intangible, or any interest therein and to sell, lease as lessor with or
11 without option to purchase, transfer (or dispose thereof) whenever the
12 property is no longer required for purposes of the district, or exchange it
13 for other property or rights which are useful for the district's purposes.
14 Except as provided in any covenant or debt instrument designed to
15 protect the creditor, if any loans or grants by the Department of
16 Commerce have not been repaid, all or a substantial part of an operating
17 natural gas district may not be disposed of without the approval of the
18 Department of Commerce. If the sale is approved by the Department of
19 Commerce, the district shall repay the State the lesser of the amount of
20 any capital grant made by the State or one-half of the amount of the
21 proceeds.
- 22 (8) To acquire by gift, purchase, lease as lessee with or without option to
23 purchase or otherwise to construct, improve, maintain, repair, operate,
24 or administer any component parts of a natural gas system. The district
25 also may contract for the maintenance, operation, or administration
26 thereof or to lease as lessor the same for maintenance, operation, or
27 administration by private parties.
- 28 (9) To make or enter into contracts, agreements, deeds, leases with or
29 without option to purchase, conveyances, or other instruments,
30 including contracts and agreements with the United States, the State of
31 North Carolina, and units of local government.
- 32 (10) To develop and make data, plans, information, surveys, and studies of
33 natural gas systems within the territorial jurisdiction of the district and
34 to prepare and make recommendations in regard thereto.
- 35 (11) To enter in a reasonable manner lands, waters, or premises for the
36 purpose of making surveys, soundings, drillings, and examinations.
37 This entry shall not be deemed a trespass except that the district shall be
38 liable for any actual and consequential damages resulting from the
39 entry.
- 40 (12) To develop and carry out demonstration projects.
- 41 (13) To make, enter into, and perform contracts with private parties and
42 natural gas companies with respect to the management and operation of
43 natural gas systems.

- 1 (14) To make, enter into, and perform contracts with any public utility,
2 railroad, or transportation company for the joint use of property or
3 rights.
- 4 (15) To own, lease, and operate natural gas systems. These systems may
5 also include the purchase or lease, or both, of natural gas fields and
6 natural gas reserves within the State, and the purchase of natural gas
7 supplies within or without the State. A district may operate that part of a
8 gas system involving the purchase or lease, or both, of natural gas fields,
9 natural gas reserves, and natural gas supplies, in an operating
10 agreement, partnership or joint venture arrangement with natural gas
11 utilities and private enterprise. The district may acquire, purchase,
12 construct, receive, own, operate, maintain, enlarge, and improve natural
13 gas systems and transport and sell at wholesale all or any part of its gas
14 supply.
- 15 (16) To purchase or finance real or personal property under G.S. 160A-20.
- 16 (17) To obtain grants, loans, and assistance from the United States, the State
17 of North Carolina, any public body, or any private source.
- 18 (18) To enter into and perform contracts and agreements with other natural
19 gas districts, regional natural gas districts, or units of local government
20 pursuant to the provisions of Part 1 of Article 20 of Chapter 160A of the
21 General Statutes and to enter into contracts and agreements with private
22 natural gas companies, but this subdivision does not authorize the
23 operation of, or contracting for the operation of, service of a natural gas
24 system outside the service area of the district. A district may provide
25 service or contract for the providing of service to a city geographically
26 located within a district, notwithstanding that the city did not join the
27 district pursuant to G.S. 160A-663(a) or G.S. 160A-672.
- 28 (19) Except as restricted by covenants in bonds, notes, security interests, or
29 trust certificates, to set in its sole discretion rates, fees, and charges for
30 use of its natural gas system in accordance with G.S. 160A-676.
- 31 (20) To do all related things necessary to carry out its purpose and to
32 exercise the powers granted to the district.
- 33 (21) To issue revenue bonds and notes and to incur other obligations as
34 authorized by this Article.

35 **"§ 160A-668. Fiscal accountability.**

36 A district is a public authority subject to the provisions of Chapter 159 of the General
37 Statutes.

38 **"§ 160A-669. Funds.**

39 The establishment and operation of a district is a public purpose, and the State of
40 North Carolina and any unit of local government may appropriate funds to support the
41 establishment and operation of the district. The State of North Carolina and any unit of
42 local government may also dedicate, sell, convey, donate, or lease any of their interests in
43 any property to the district. A district may apply for grants from the State of North

1 Carolina, or from the United States or any department, agency, or instrumentality thereof.
2 The Department of Commerce may allocate to a district any funds appropriated for
3 natural gas.

4 **"§ 160A-670. Effect on existing franchises and operations.**

5 Creation of the district does not affect any existing franchises granted by any unit of
6 local government. Those existing franchises shall continue in full force and effect until
7 legally terminated, and all ordinances and resolutions of the unit of local government
8 regulating local natural gas systems shall continue in full force and effect unless
9 superseded by rules of the district. This superseding, if any, may occur only on the basis
10 of prior mutual agreement between the district and the respective unit of local
11 government.

12 **"§ 160A-671. Termination of district.**

13 The Board of Trustees, after providing for the continued availability of natural gas
14 service to its customers, if any, may terminate the existence of the district at any time
15 when it has no outstanding indebtedness. The Board of Trustees shall file notification of
16 the termination with the Secretary of State.

17 **"§ 160A-672. Joinder of county or city.**

18 (a) Whenever a district has been organized under the provisions of this Article, a
19 county as defined in G.S. 160A-662(a) or a city within that county, or a city that did not
20 join in the organization of a district but is geographically located within the district may,
21 with the consent of the district as evidenced by a resolution adopted by a majority of the
22 members of the Board of Trustees of the district, join the district.

23 (b) A county or city desiring to join an existing district shall signify its desire by
24 resolution adopted after a public hearing thereon, notice of which hearing shall be given
25 in the manner and at the time provided in G.S. 160A-663. Such notice shall contain a
26 brief statement of the substance of said resolution and shall state the time and place of the
27 public hearing.

28 (c) A certified copy of each resolution signifying the desire of a county or city to
29 join an existing district, together with proof of publication of the notice of hearing on the
30 resolution, and a certified copy of the resolution of the Board of Trustees of the district
31 consenting to the joining shall be filed with the Secretary of State. If the Secretary of
32 State finds that the resolutions conform to the provisions of this Article and that the
33 notices of hearing were properly published, the Secretary of State shall file such
34 resolutions and proofs of publication in the office of the Secretary of State, shall issue a
35 certificate of joinder, and shall record the certificate in the appropriate book of record.
36 The issuance of the certificate shall be conclusive evidence of the joinder of the county or
37 city to the district.

38 **"§ 160A-673. Bonds and notes authorized.**

39 The district may issue revenue bonds and revenue bond anticipation notes pursuant to
40 the provisions of the State and Local Government Revenue Bond Act, Article 5 of
41 Chapter 159 of the General Statutes, and Article 9 of Chapter 159 for the purposes
42 provided in this Article. If and to the extent any provisions of Articles 5 and 9 of Chapter
43 159 are inconsistent with the provisions of this Article, the provisions of this Article shall

1 be controlling. A district may proceed with the issuance of bonds and notes under
2 Articles 5 and 9 of Chapter 159 notwithstanding that, to the extent of any inconsistency
3 only, the district complies with the provisions of this Article and not the provisions of
4 Articles 5 and 9 of Chapter 159.

5 **"§ 160A-674. Acquisition, power of eminent domain.**

6 (a) The district shall have continuing power to acquire, by gift, grant, devise,
7 bequest, exchange, purchase, lease with or without option to purchase, or any other
8 lawful method including, but not limited to, the power of eminent domain, the fee or any
9 lesser interest in real or personal property for use by the district.

10 (b) Exercise of the power of eminent domain by the district shall be as a private
11 condemnor in accordance with Chapter 40A of the General Statutes. Notwithstanding
12 Chapter 40A of the General Statutes, before final judgment may be entered in any action
13 of condemnation initiated by the district, the district shall furnish proof that the board of
14 commissioners of the county where the land is located has consented by resolution or
15 ordinance to the taking.

16 **"§ 160A-675. Tax exemption.**

17 A district, and its property, bonds and notes, and income, are exempt from property
18 taxes and income taxes to the same extent as if it were a city. A district is subject to
19 gross receipts tax under G.S. 105-116.

20 **"§ 160A-676. Authority to fix and enforce rates.**

21 (a) A district may establish and revise from time to time schedules of rents, rates,
22 fees, charges, and penalties made applicable throughout the district for the gas services.
23 Schedules of rents, rates, fees, charges, or penalties may vary according to classes of
24 service. Before it establishes or revises a schedule of rents, rates, fees, charges, or
25 penalties, the district Board of Trustees shall hold a public hearing on the matter. A
26 notice of the hearing shall be given at least once in a newspaper having general
27 circulation in the area, not less than seven days before the public hearing.

28 (b) A district may collect delinquent accounts by any remedy provided by law for
29 collecting and enforcing private debts. A district may also discontinue service to any
30 customer whose account remains delinquent for more than 30 days. When service is
31 discontinued for delinquency, it shall be unlawful for any person other than a duly
32 authorized agent or employee of the district to do any act that results in a resumption of
33 services. If a delinquent customer is not the owner of the premises to which the services
34 are delivered, the payment of the delinquent account may not be required before
35 providing services at the request of a new and different tenant or occupant of the
36 premises, but this restriction shall not apply when the premises are occupied by two or
37 more tenants whose services are measured by the same meter.

38 (c) Rents, rates, fees, charges, and penalties for services shall be legal obligations
39 of the person contracting for them and shall in no case be a lien upon the property or
40 premises served.

41 (d) Rents, rates, fees, charges, and penalties for services shall be legal obligations
42 of the owner of the premises served when the property or premises are leased or rented to

1 more than one tenant and services rendered to more than one tenant are measured by the
2 same meter."

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

4 **"§ 105-116. Franchise or privilege tax on electric power, natural gas, water, and**
5 **sewerage companies.**

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

8 (1) An electric power company engaged in the business of furnishing
9 electricity, electric lights, current, or power.

10 (2) A natural gas company engaged in the business of furnishing piped
11 natural gas.

12 (2a) A regional natural gas district created under Article 28 of Chapter 160A
13 of the General Statutes.

14 (3) A water company engaged in owning or operating a water system
15 subject to regulation by the North Carolina Utilities Commission.

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

18 The tax on an electric power company is three and twenty-two hundredths percent
19 (3.22%) of the company's taxable gross receipts from the business of furnishing
20 electricity, electric lights, current, or power. The tax on a natural gas company is three
21 and twenty-two hundredths percent (3.22%) of the company's taxable gross receipts from
22 the business of furnishing piped natural gas. The tax on a regional natural gas district is
23 three and twenty-two hundredths percent (3.22%) of the district's taxable gross receipts
24 from the furnishing of piped natural gas. The tax on a water company is four percent
25 (4%) of the company's taxable gross receipts from owning or operating a water system
26 subject to regulation by the North Carolina Utilities Commission. The tax on a public
27 sewerage company is six percent (6%) of the company's taxable gross receipts from
28 owning or operating a public sewerage company. A company's taxable gross receipts are
29 its gross receipts from business inside the State less the amount of gross receipts from
30 sales reported under subdivision (b)(2). A company that engages in more than one
31 business taxed under this section shall pay tax on each business. A company is allowed a
32 credit against the tax imposed by this section for the company's investments in certain
33 entities in accordance with Division V of Article 4 of this Chapter.

34 (b) Report and Payment. – The tax imposed by this section is payable monthly or
35 quarterly as specified in this subsection. A report is due quarterly. An electric power
36 ~~company or company, a natural gas company-company, or a regional natural gas district~~
37 shall pay tax monthly. A monthly tax payment is due by the last day of the month that
38 follows the month in which the tax accrues, except the payment for tax that accrues in
39 May. The payment for tax that accrues in May is due by June 25. ~~An electric power~~
40 ~~company or a natural gas company~~ A taxpayer is not subject to interest on or penalties for
41 an underpayment of a monthly amount due if the ~~company-taxpayer~~ taxpayer timely pays at least
42 ninety-five percent (95%) of the amount due and includes the underpayment with the

1 next report the company files. A water company or a public sewerage company shall pay
2 tax quarterly when filing a report.

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

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

23 A ~~company-taxpayer~~ shall report its gross receipts on an accrual basis. If a ~~company's~~
24 ~~taxpayer's~~ report does not state the ~~company's-taxpayer's~~ taxable gross receipts derived
25 within a city, the Secretary must determine a practical method of allocating part of the
26 ~~company's-taxpayer's~~ taxable gross receipts to the city.

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

- 29 (1) Special charges collected within this State by the company pursuant to
30 drilling and exploration surcharges approved by the North Carolina
31 Utilities Commission, if the surcharges are segregated from the other
32 receipts of the company and are devoted to drilling, exploration, and
33 other means to acquire additional supplies of natural gas for the account
34 of natural gas customers in North Carolina and the beneficial interest in
35 the surcharge collections is preserved for the natural gas customers
36 paying the surcharges under rules established by the Commission.
- 37 (2) Natural gas expansion surcharges imposed under G.S. 62-158.

38 (d) Distribution. – Part of the taxes imposed by this section on electric power
39 ~~companies and natural gas companies-companies~~, natural gas companies, and regional
40 natural gas districts is distributed to cities under G.S. 105-116.1.

41 (e) Local Tax. – So long as there is a distribution to cities from the tax imposed by
42 this section, no city shall impose or collect any greater franchise, privilege or license
43 taxes, in the aggregate, on the businesses taxed under this section, than was imposed and

1 collected on or before January 1, 1947. If any municipality shall have collected any
2 privilege, license or franchise tax between January 1, 1947, and April 1, 1949, in excess
3 of the tax collected by it prior to January 1, 1947, then upon distribution of the taxes
4 imposed by this section to municipalities, the amount distributable to any municipality
5 shall be credited with such excess payment.

6 (f) Gas City Exemption. – The tax imposed by this section does not apply to the
7 following cities that operate their own piped natural gas systems: Bessemer City, Kings
8 Mountain, Lexington, Shelby, Greenville, Monroe, Rocky Mount, and Wilson."

9 Section 3.1. G.S. 105-116.1 reads as rewritten:

10 **"§ 105-116.1. Distribution of gross receipts taxes to cities.**

11 (a) Definitions. – The following definitions apply in this section:

12 (1) Freeze deduction. – The amount by which the percentage distribution
13 amount of a city was required to be reduced in fiscal year 1995-96 in
14 determining the amount to distribute to the city.

15 (2) Percentage distribution amount. – Three and nine hundredths percent
16 (3.09%) of the gross receipts derived by an electric power company, a
17 natural gas company, a regional natural gas district, and a telephone
18 company from sales within a city that are taxable under G.S. 105-116 or
19 G.S. 105-120.

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

26 (c) Limited Hold-Harmless Adjustment. – The hold-back amount for a city that,
27 in the 1995-96 fiscal year, received from gross receipts taxes less than ninety-five percent
28 (95%) of the amount it received in the 1990-91 fiscal year is the amount determined by
29 the following calculation:

30 (1) Adjust the city's 1995-96 distribution by adding the city's freeze
31 deduction to the amount distributed to the city for that year.

32 (2) Compare the adjusted 1995-96 amount with the city's 1990-91
33 distribution.

34 (3) If the adjusted 1995-96 amount is less than or equal to the city's 1990-
35 91 distribution, the hold-back amount for the city is zero.

36 (4) If the adjusted 1995-96 amount is more than the city's 1990-91
37 distribution, the hold-back amount for the city is the city's freeze
38 deduction minus the difference between the city's adjusted 1995-96
39 amount and the city's 1990-91 distribution.

40 (d) Allocation of Hold-Harmless Adjustment. – The hold-back amount for a city
41 that, in the 1995-96 fiscal year, received from gross receipts taxes at least ninety-five
42 percent (95%) of the amount it received in the 1990-91 fiscal year is the amount
43 determined by the following calculation:

- 1 (1) Determine the amount by which the freeze deduction is reduced for all
2 cities whose hold-back amount is determined under subsection (c) of
3 this section. This amount is the total hold-harmless adjustment.
4 (2) Determine the amount of gross receipts taxes that would be distributed
5 for the quarter to cities whose hold-back amount is determined under
6 this subsection if these cities received their percentage distribution
7 amount minus one-fourth of their freeze deduction.
8 (3) For each city included in the calculation in subdivision (2) of this
9 subsection, determine that city's percentage share of the amount
10 determined under that subdivision.
11 (4) Add to the city's freeze deduction an amount equal to the city's
12 percentage share under subdivision (3) of this subsection multiplied by
13 the total hold-harmless adjustment."

14 Section 4. G.S. 105-164.3(25) reads as rewritten:

15 "(25) 'Utility' means an electric power company, a gas company, a regional
16 natural gas district, or a telephone company that is subject to a privilege
17 tax based on gross receipts under G.S. 105-116 or 105-120, a business
18 entity that provides local, toll, or private telecommunications service as
19 defined by G.S. 105-120(e) or a municipality that sells electric power,
20 other than a municipality whose only wholesale supplier of electric
21 power is a federal agency and who is required by a contract with that
22 federal agency to make payments in lieu of taxes."

23 Section 5. G.S. 105-164.14(c) is amended by adding a new subdivision to

24 read:

25 "(22) A regional natural gas district created pursuant to Article 28 of Chapter
26 160A of the General Statutes."

27 Section 6. G.S. 159-81(1) reads as rewritten:

28 "(1) 'Municipality' means a county, city, town, incorporated village, sanitary
29 district, metropolitan sewerage district, metropolitan water district,
30 county water and sewer district, water and sewer authority, hospital
31 authority, hospital district, parking authority, special airport district,
32 regional public transportation authority, regional natural gas district,
33 regional sports authority, airport authority, joint agency created pursuant
34 to Part 1 of Article 20 of Chapter 160A of the General Statutes, and
35 joint agency authorized by agreement between two cities to operate an
36 airport pursuant to G.S. 63-56, but not any other forms of local
37 government."

38 Section 7. G.S. 160A-20(h) reads as rewritten:

39 "(h) As used in this section, the term 'unit of local government' means any of the
40 following:

- 41 (1) A county.
42 (2) A city.

- 1 (3) A water and sewer authority created under Article 1 of Chapter 162A of
2 the General Statutes.
- 3 (4) An airport authority whose situs is entirely within a county that has (i) a
4 population of over 120,000 according to the most recent federal
5 decennial census and (ii) an area of less than 200 square miles.
- 6 (5) An airport authority in a county in which there are two incorporated
7 municipalities with a population of more than 65,000 according to the
8 most recent federal decennial census.
- 9 (5a) An airport board or commission authorized by agreement between two
10 cities pursuant to G.S. 63-56, one of which is located partially but not
11 wholly in the county in which the jointly owned airport is located, and
12 where the board or commission provided water and wastewater services
13 off the airport premises before January 1, 1995; provided that the
14 authority granted by this section may be exercised by such a board or
15 commission with respect to water and wastewater systems or
16 improvements only.
- 17 (6) A local school administrative unit (i) that is located in a county that has
18 a population of over 90,000 according to the most recent federal
19 decennial census and (ii) whose board of education is authorized to levy
20 a school tax.
- 21 (7) An area mental health, developmental disabilities, and substance abuse
22 authority, acting in accordance with G.S. 122C-147.
- 23 (8) A consolidated city-county, as defined by G.S. 160B-2(1).
- 24 (9) A regional natural gas district, as defined by Article 28 of this Chapter."
25 Section 7.1. If Ratified Senate Bill 389, 1997 Regular Session becomes law,
26 then G.S. 160A-20(h)(9) as enacted by Section 7 of this act is recodified as G.S. 160A-
27 20(h)(10).
- 28 Section 8. G.S. 62-3(23) is amended by adding a new sub-subdivision to read:
29 "k. The term 'public utility' shall not include a regional natural gas
30 district organized and operated pursuant to Article 28 of Chapter
31 160A of the General Statutes."
- 32 Section 9. G.S. 62-50(g) reads as rewritten:
33 "(g) For the purpose of this section, 'gas operators' include gas utilities and gas
34 pipeline carriers operating under a franchise from the Utilities Commission, municipal
35 corporations operating municipally owned gas distribution systems, regional natural gas
36 districts organized and operated pursuant to Article 28 of Chapter 160A of the General
37 Statutes, and public housing authorities and any person operating apartment complexes or
38 mobile home parks that distribute or submeter natural gas to their tenants. This section
39 does not confer any other jurisdiction over municipally owned gas distribution systems,
40 regional natural gas districts, public housing authorities or persons operating apartment
41 complexes or mobile home parks."

1 Section 10. (a) Insofar as the provisions of this act are not consistent with the
2 provisions of any other law, public or private, the provisions of this act shall be
3 controlling.

4 (b) References in this act to specific sections or Chapters of the General
5 Statutes are intended to be references to such sections or Chapters as they may be
6 amended from time to time by the General Assembly.

7 (c) This act, being necessary for the health and welfare of the people of the
8 State, shall be liberally construed to effect the purposes thereof.

9 (d) If any provision of this act or the application thereof to any person or
10 circumstance is held invalid, such invalidity shall not affect other provisions or
11 applications of the act which can be given effect without the invalid provision or
12 application, and to this end the provisions of this act are declared to be severable.

13 **PART III.**

14 **EFFECTIVE DATES**

15 Section 11. This act is effective when it becomes law.