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SENATE BILL DRS15278-MCxf-4F

Short Title: Simplifying NC Local Sales Tax Distribution. (Public)

Sponsors: Senators Brown and Hise (Primary Sponsors).

Referred to:

A BILL TO BE ENTITLED

AN ACT SIMPLIFYING NORTH CAROLINA'S LOCAL SALES TAX DISTRIBUTION.

The General Assembly of North Carolina enacts:

SECTION 1. Sec. 9 of Chapter 1096 of the 1967 Session Laws, as amended, reads as rewritten:

"Sec. 9. Distribution. The Secretary of Revenue must ~~divide~~ allocate the net proceeds of the tax collected under this division on items other than food in accordance with G.S. 105-472(a) in the First One Cent (1¢) Local Government Sales and Use Tax Act, Article 39 of Chapter 105 of the General Statutes. The Secretary must divide the amount allocated to Mecklenburg County and its municipalities in accordance with the ad valorem distribution method described in G.S. 105-472(b)(2). The Secretary of Revenue must distribute the taxes levied by Mecklenburg County on food to Mecklenburg County and the municipalities within Mecklenburg County in accordance with G.S. 105-469(a). This amount shall be divided between the county and its municipalities in accordance with the ad valorem distribution method described in G.S. 105-472(b)(2). The net proceeds from the tax levied under this division and distributed to Mecklenburg County must be used as provided in G.S. 105-472(a1).

The Secretary of Revenue must reduce the amount distributable to Mecklenburg County under this section by the amount set in G.S. 105-522. This reduction does not affect the amount allocated to municipalities under this section."

SECTION 2. G.S. 105-469(a) reads as rewritten:

"(a) The Secretary shall collect and administer a tax levied by a county pursuant to this Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as if they were levied by the State under Article 5 of this Chapter. The references in this section to Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and Articles 40 and 42 of this Chapter do not include the adjustments made pursuant to G.S. 105-524. The Secretary must, on a monthly basis, distribute local taxes levied on food to the taxing counties ~~as follows:~~ in accordance with G.S. 105-472(a). The net proceeds of the local taxes on food distributed to counties must be used by the taxing counties as provided in G.S. 105-472(a1).

~~(1) The Secretary must allocate one half of the net proceeds on a per capita basis according to the most recent annual population estimates certified to the Secretary by the State Budget Officer. The Secretary must then adjust the amount allocated to each county as provided in G.S. 105-486(b). The Secretary must include one half of the amount allocated under this subdivision in the distribution made under Article 40 of this Chapter and must include the remaining one half in the distribution made under Article 42 of this Chapter.~~



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(2) ~~The Secretary must allocate the remaining net proceeds proportionately to each taxing county based upon the amount of sales tax on food collected in the taxing county in the 1997-1998 fiscal year under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws relative to the total amount of sales tax on food collected in all taxing counties in the 1997-1998 fiscal year under Article 39 of this Chapter and under Chapter 1096 of the 1967 Session Laws. The Secretary must include the amount allocated under this subdivision in the distribution made under Article 39 of this Chapter.~~"

SECTION 3. G.S. 105-472 reads as rewritten:

"§ 105-472. ~~Disposition and distribution~~ Allocation, distribution, and use of taxes collected.

"(a) County Allocation. – The Secretary shall, on a monthly basis, allocate the net proceeds of the tax collected under this Article to each taxing county for which the Secretary collects the tax ~~the net proceeds of the tax collected in that county under this Article.~~ as provided in this subsection. For the purpose of this section, "net proceeds" means the gross proceeds of the tax collected in each county under this Article less taxes refunded, the cost to the State of collecting and administering the tax in the county as determined by the Secretary, and other deductions that may be charged to the county. For the percentage allocation made on a point of collection basis, the Secretary must allocate the net proceeds of the tax collected under this Article in that county. If the Secretary collects local sales or use taxes in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary shall allocate the taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article during that month and shall include them in the monthly distribution. Amounts collected by electronic funds transfer payments are included in the distribution for the month in which the return that applies to the payment is received. For the percentage allocation made on a per capita basis, the Secretary must allocate the net proceeds of the tax collected under this Article to the taxing counties according to the most recent annual population estimates certified to the Secretary by the State Budget Office.

The net proceeds are allocated as follows:

<u>Distribution for Net Proceeds Collected in Fiscal Year</u>	<u>Per Capita</u>	<u>Point of Collection</u>
2020-2021	31.25%	68.75%
2021-2022	37.50%	62.50%
2022-2023	43.75%	56.25%
2023 and thereafter	50%	50%

(a1) Use. – Ninety percent (90%) of the net proceeds of the revenue received by a county from the per capita allocation must be used by the county for public education and community college purposes. The remaining net proceeds received by a county may be used for any public purpose. The Local Government Commission may, upon petition by a county, authorize a county to use part or all of the revenue required to be used for public education and community college purposes for any other lawful purpose. The petition must be in the form of a resolution adopted by the Board of County Commissioners and transmitted to the Local Government Commission. The petition must demonstrate that the county can provide for public school and community college needs without restricting the use of part or all of the specified revenue for these purposes.

In making its decision, the Local Government Commission must consider information in the petition concerning not only the public school and community college needs but also the other capital needs of the petitioning county. The Commission may consider information from sources other than the petition. The Commission must issue a written decision on each petition stating the findings of the Commission concerning the public school and community college needs of the petitioning county and the percentage of revenue that may be used by the petitioning county for any other lawful purpose. Decisions of the Commission allowing counties to use a percentage of the revenue for any other lawful purpose are final and continue in effect until the restrictions

1 expire. A county whose petition is denied, in whole or in part, by the Commission may
 2 subsequently submit a new petition to the Commission.

3"

4 **SECTION 4.** G.S. 105-486 reads as rewritten:

5 "**§ 105-486. Distribution and use of additional taxes.**

6 (a) ~~County Allocation.~~Allocation and Use. – The Secretary shall, on a monthly basis,
 7 allocate the net proceeds of the additional one-half percent (1/2%) sales and use taxes levied
 8 under this Article to the taxing counties ~~on a per capita basis according to the most recent annual~~
 9 ~~population estimates certified to the Secretary by the State Budget Officer.~~in accordance with
 10 G.S. 105-472(a). The net proceeds of the tax revenue received by a county under this Article
 11 must be used as provided in G.S. 105-472(a1).

12 (b) ~~Adjustment.~~—~~The Secretary shall then adjust the amount allocated to each county~~
 13 ~~under subsection (a) by multiplying the amount by the appropriate adjustment factor set out in~~
 14 ~~the table below. If, after applying the adjustment factors, the resulting total of the amounts~~
 15 ~~allocated is greater or lesser than the net proceeds to be distributed, the amount allocated to each~~
 16 ~~county shall be proportionally adjusted to eliminate the excess or shortage.~~

County	Adjustment Factor
Dare	1.49
Brunswick	1.17
Orange	1.15
Carteret and Durham	1.14
Avery	1.12
Moore	1.11
Transylvania	1.10
Chowan, McDowell, and Richmond	1.09
Pitt and New Hanover	1.07
Beaufort, Perquimans, Buncombe, and Watauga	1.06
Cabarrus, Jackson, and Surry	1.05
Alleghany, Bladen, Robeson, Washington, Craven, Henderson, Onslow, and Vance	1.04
Gaston, Granville, and Martin	1.03
Alamance, Burke, Caldwell, Chatham, Duplin, Edgecombe, Haywood, Swain, and Wilkes	1.02
Hertford, Union, Stokes, Yancey, Halifax, Rockingham, and Cleveland	1.01
Alexander, Anson, Johnston, Northampton, Pasquotank, Person, Polk, and Yadkin	1.00
Catawba, Harnett, Iredell, Pamlico, Pender, Randolph, Stanly, and Tyrrell	0.99
Cherokee, Cumberland, Davidson, Graham, Hyde, Macon, Rutherford, Scotland, and Wilson	0.98
Ashe, Bertie, Franklin, Hoke, Lincoln, Montgomery, and Warren	0.97
Wayne, Clay, Madison, Sampson, Wake, Lee, and Forsyth	0.96
Caswell, Gates, Mitchell, and Greene	0.95
Currituck and Guilford	0.94
Davie and Nash	0.93
Rowan and Camden	0.92
Jones	0.90
Mecklenburg	0.89
Lenoir	0.88
Columbus	0.81

1 (c) Distribution Between Counties and Cities. – The amount allocated to each taxing
2 county shall then be divided among the county and its municipalities in accordance with the
3 method by which the one percent (1%) sales and use taxes levied in that county pursuant to
4 Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed.

5 (d) Limitation. – No municipality may receive any funds under this section if it was
6 incorporated with an effective date of on or after January 1, 2000, and is disqualified from
7 receiving funds under G.S. 136-41.2. No municipality may receive any funds under this section,
8 incorporated with an effective date on or after January 1, 2000, unless a majority of the mileage
9 of its streets are open to the public. The previous sentence becomes effective with respect to
10 distribution of funds on or after July 1, 1999."

11 **SECTION 5.** G.S. 105-501(a) reads as rewritten:

12 "(a) ~~Method.~~Distribution and Use. – The Secretary must, on a monthly basis, allocate to
13 ~~each taxing county~~ the net proceeds of the additional one-half percent (1/2%) sales and use taxes
14 ~~collected in that county levied under this Article. If the Secretary collects taxes under this Article~~
15 ~~in a month and the taxes cannot be identified as being attributable to a particular taxing county,~~
16 ~~the Secretary must allocate the net proceeds of these taxes among the taxing counties in~~
17 ~~proportion to the amount of taxes collected in each county under this Article in that month.~~Article
18 in accordance with G.S. 105-472(a). The net proceeds of the tax revenue received by a county
19 under this Article must be used as provided in G.S. 105-472(a1).

20 The Secretary must divide and distribute the funds allocated to a taxing county each month
21 under this section between the county and the municipalities located in the county in accordance
22 with the method by which the one percent (1%) sales and use taxes levied in that county pursuant
23 to Article 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No
24 municipality may receive any funds under this section if it was incorporated with an effective
25 date of on or after January 1, 2000, and is disqualified from receiving funds under G.S. 136-41.2.
26 No municipality may receive any funds under this section, incorporated with an effective date on
27 or after January 1, 2000, unless a majority of the mileage of its streets are open to the public."

28 **SECTION 6.** G.S. 105-522 reads as rewritten:

29 "**§ 105-522. City hold harmless for repealed local taxes.**

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

31 (1) Amount of sales and use tax revenue allocated under G.S. 105-472 or Chapter
32 1096 of the 1967 Session Laws. – An allocation to each taxing county of the
33 net proceeds of the tax collected in that county under Article 39 of this Chapter
34 or under Chapter 1096 of the 1967 Session Laws. This definition represents
35 an allocation based on one hundred percent (100%) point of collection.

36 (1a) Amount of sales and use tax revenue allocated under G.S. 105-486. – An
37 allocation of the net proceeds of the tax collected under Article 40 of this
38 Chapter to the taxing counties on a per capita basis. This definition represents
39 an allocation based on one hundred percent (100%) per capita.

40 ~~(1b)~~ (1b) Eligible municipality. – A municipality that was incorporated on or before
41 October 1, 2008, and receives a distribution of sales and use taxes under
42 G.S. 105-472.

43 (2) Hold harmless amount. – The sum of the following amounts allocated for
44 distribution to a municipality for a month. The references in this subdivision
45 to Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and
46 Articles 40 and 42 of this Chapter do not include the adjustment made
47 pursuant to G.S. 105-524. The amounts are as follows:

48 a. The amount of sales and use tax revenue allocated under G.S. 105-486.
49 This calculation determines the effect of repealing a one-half percent
50 (1/2%) sales and use tax distributed on a per capita basis.

- 1 b. An amount determined by subtracting twenty-five percent (25%) of
2 the amount of sales and use tax revenue allocated under G.S. 105-472
3 or Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of
4 the amount of sales and use tax revenue allocated under G.S. 105-486.
5 This calculation determines the effect of distributing a one-quarter
6 percent (.25%) tax on the basis of point of origin instead of on a per
7 capita basis.

8 (3) Net proceeds. – Same meaning as defined in G.S. 105-472.

9 (b) Requirement. – A county is required to hold the eligible municipalities in the county
10 harmless from the repeal of the local sales and use taxes formerly imposed under this Article.
11 The Secretary must add an eligible municipality's hold harmless amount to the amount distributed
12 to the municipality under this Subchapter. To obtain the revenue for the hold harmless
13 distribution, the Secretary must reduce each county's monthly allocation under G.S. 105-472(b)
14 or under Chapter 1096 of the 1967 Session Laws by the hold harmless amounts for the
15 municipalities in that county."

16 **SECTION 7.** G.S. 105-523(b) reads as rewritten:

17 "(b) Definitions. – The following definitions apply in this section:

18 (1) Amount of sales and use tax revenue allocated under G.S. 105-472 or Chapter
19 1096 of the 1967 Session Laws. – An allocation to each taxing county of the
20 net proceeds of the tax collected in that county under Article 39 of this Chapter
21 or under Chapter 1096 of the 1967 Session Laws. This definition represents
22 an allocation based on one hundred percent (100%) point of collection.

23 (1a) Amount of sales and use tax revenue allocated under G.S. 105-486. – An
24 allocation of the net proceeds of the tax collected under Article 40 of this
25 Chapter to the taxing counties on a per capita basis. This definition represents
26 an allocation based on one hundred percent (100%) per capita.

27 ~~(1b)~~ City hold harmless amount. – The hold harmless amount determined under
28 G.S. 105-522 for the eligible municipalities in a county.

29 ...

30 (2a) Net proceeds. – Same meaning as defined in G.S. 105-472.

31 (3) Repealed sales tax amount. – The sum of the following amounts allocated for
32 distribution to a county for a month. The references in this subdivision to
33 Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and
34 Articles 40 and 42 of this Chapter do not include the adjustment made
35 pursuant to G.S. 105-524. The amounts are as follows:

- 36 a. The amount of sales and use tax revenue allocated under G.S. 105-486.
37 This calculation determines the effect of repealing a one-half percent
38 (1/2%) sales and use tax distributed on a per capita basis.
39 b. An amount determined by subtracting twenty-five percent (25%) of
40 the amount of sales and use tax revenue allocated under G.S. 105-472
41 or Chapter 1096 of the 1967 Session Laws from fifty percent (50%) of
42 the amount of sales and use tax revenue allocated under G.S. 105-486.
43 This calculation determines the effect of distributing a one-quarter
44 percent (.25%) tax on the basis of point of origin instead of on a per
45 capita basis."

46 **SECTION 8.** G.S. 105-487 and 105-502 are repealed.

47 **SECTION 9.(a)** Hold Harmless Distribution Amount. – The Secretary must
48 calculate a distribution amount for the 2020-2021 fiscal year in conformity with this section. The
49 Secretary must deduct this amount, in equal installments, proportionately from the collections to
50 be allocated each month for distribution under Article 39 and Chapter 1096 of the 1967 Session
51 Laws and Articles 40 and 42 of this Chapter, excluding the revenue allocated under G.S. 105-469.

1 For the fiscal year July 1, 2020, the distribution amount is five million two hundred thousand
 2 dollars (\$5,200,000). The Secretary must, on a monthly basis, allocate to each taxing county an
 3 amount equal to one-twelfth of the distribution amount calculated under this section multiplied
 4 by the appropriate allocation percentage. If, after applying the allocation percentages in this
 5 section, the resulting total of the amounts allocated is greater or lesser than the net proceeds to
 6 be distributed, the amount allocated to each county shall be proportionally adjusted to eliminate
 7 the excess or shortage. The allocation percentage for a county is zero percent (0%), except as
 8 follows:

9	<u>County</u>	<u>Allocation Percentage</u>
10	Alexander	5.30%
11	Alleghany	1.57%
12	Anson	2.08%
13	Beaufort	0.38%
14	Bertie	0.43%
15	Bladen	3.93%
16	Burke	8.26%
17	Caldwell	4.13%
18	Caswell	2.26%
19	Chowan	2.02%
20	Duplin	4.56%
21	Edgecombe	10.25%
22	Gates	2.86%
23	Graham	0.33%
24	Granville	2.71%
25	Greene	2.06%
26	Hertford	2.40%
27	Madison	0.51%
28	McDowell	3.36%
29	Montgomery	2.18%
30	Orange	5.47%
31	Pamlico	0.38%
32	Perquimans	2.03%
33	Polk	0.34%
34	Richmond	3.63%
35	Robeson	5.28%
36	Rockingham	8.04%
37	Scotland	0.63%
38	Stokes	3.69%
39	Vance	0.26%
40	Warren	2.47%
41	Washington	2.18%
42	Yadkin	2.85%
43	Yancey	1.11%.

44 **SECTION 9.(b)** No Distribution Between Counties and Cities. – The amount
 45 allocated to a taxing county under this section is not to be divided among the county and its
 46 municipalities.

47 **SECTION 9.(c)** Taxing County. – For purposes of this section, the term "taxing
 48 county" means a county that levies the first one-cent (1¢) sales and use tax under Article 39 of
 49 this Chapter or under Chapter 1096 of the 1967 Session Laws, the first one-half cent (1/2¢) local
 50 sales and use tax under Article 40 of this Chapter, and the second one-half cent (1/2¢) local sales
 51 and use tax under Article 42 of this Chapter.

1 **SECTION 9.(d)** Adjustments. – The adjustments made under this section to Article
2 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and Articles 40 and 42 of this
3 Chapter shall not be included in the calculations made under G.S. 105-469, 105-522, and
4 105-523.

5 **SECTION 10.(a)** Effective July 1, 2020, G.S. 105-524(b) reads as rewritten:

6 "(b) Distribution Amount. – The Secretary must calculate a distribution amount in
7 conformity with this section. The Secretary must deduct this amount, in equal installments,
8 proportionately from the collections to be allocated each month for distribution under Article 39
9 and Chapter 1096 of the 1967 Session Laws and Articles 40 and 42 of this Chapter, excluding
10 the revenue allocated under G.S. 105-469.

11 For the fiscal year beginning July 1, 2016, the distribution amount is eighty-four million eight
12 hundred thousand dollars (\$84,800,000). For fiscal years beginning on or after July 1, 2017, the
13 distribution amount is the amount for the preceding year, adjusted by the same percentage of this
14 amount as the percentage change of the total collection of local sales and use taxes levied under
15 Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and Articles 40 and 42 of
16 this Chapter for the preceding fiscal year. For the fiscal years beginning on or after July 1, 2019,
17 the distribution amount is the amount for the preceding year, adjusted by the same percentage of
18 this amount as the percentage change of the total collection of local sales and use taxes levied
19 under Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and Articles 40 and
20 42 of this Chapter for the preceding fiscal year and multiplied a phase-out percentage. For fiscal
21 year 2020-2021, the phase-out percentage is sixty percent (60%). For fiscal year 2021-2022, the
22 phase-out percentage is thirty-three and three-tenths percent (33.3%). For fiscal year 2022-2023,
23 the phase-out percentage is fourteen and three-tenths percent (14.3%)."

24 **SECTION 10.(b)** G.S. 105-524 is repealed.

25 **SECTION 10.(c)** G.S. 105-469(a), as rewritten by Section 2 of this act, reads as
26 rewritten:

27 "(a) The Secretary shall collect and administer a tax levied by a county pursuant to this
28 Article. As directed by G.S. 105-164.13B, taxes levied by a county on food are administered as
29 if they were levied by the State under Article 5 of this Chapter. ~~The references in this section to~~
30 ~~Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and Articles 40 and 42 of~~
31 ~~this Chapter do not include the adjustments made pursuant to G.S. 105-524.~~ The Secretary must,
32 on a monthly basis, distribute local taxes levied on food to the taxing counties in accordance with
33 G.S. 105-472(a). The net proceeds of the local taxes on food distributed to counties must be used
34 by the taxing counties as provided in G.S. 105-472(a1).

35 "

36 **SECTION 10.(d)** G.S. 105-522(a)(2) reads as rewritten:

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

38 ...

39 (2) Hold harmless amount. – The sum of the following amounts allocated for
40 distribution to a municipality for a month. ~~The references in this subdivision~~
41 ~~to Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and~~
42 ~~Articles 40 and 42 of this Chapter do not include the adjustment made~~
43 ~~pursuant to G.S. 105-524.~~ The amounts are as follows:

44 "

45 **SECTION 10.(e)** G.S. 105-523(b) reads as rewritten:

46 "(b) Definitions. – The following definitions apply in this section:

47 ...

48 (3) Repealed sales tax amount. – The sum of the following amounts allocated for
49 distribution to a county for a month. ~~The references in this subdivision to~~
50 ~~Article 39 of this Chapter and Chapter 1096 of the 1967 Session Laws and~~

1 ~~Articles 40 and 42 of this Chapter do not include the adjustment made~~
2 ~~pursuant to G.S. 105-524. The amounts are as follows:~~
3 ~~...."~~

4 **SECTION 10.(f)** Except as otherwise provided, this section becomes effective July
5 1, 2023.

6 **SECTION 11.** Except as otherwise provided, this act becomes effective July 1, 2020,
7 and applies to sales tax revenues collected on or after that date and distributed to counties and
8 cities on or after September 1, 2020.