

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001

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SENATE BILL 1292
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Short Title: Budget Revenue Act of 2002.

(Public)

Sponsors:

Referred to:

June 10, 2002

A BILL TO BE ENTITLED

AN ACT TO RAISE REVENUES TO SUPPORT THE CURRENT OPERATIONS OF
STATE AND LOCAL GOVERNMENT, TO UPDATE THE REFERENCE DATE
TO THE INTERNAL REVENUE CODE USED TO DEFINE AND DETERMINE
CERTAIN STATE TAX PROVISIONS, AND TO PROVIDE THAT LOCAL
REVENUES MAY NOT BE WITHHELD OR IMPOUNDED BY THE
GOVERNOR.

The General Assembly of North Carolina enacts:

PART I. ACCELERATE LOCAL OPTION SALES TAX

SECTION 1.1. G.S. 105-517(c) reads as rewritten:

"(c) Effective Date. – A tax levied under this Article may not become effective before ~~July 1, 2003.~~ August 1, 2002."

SECTION 1.2. G.S. 105-518(b) reads as rewritten:

"(b) Ballot Question. – The question to be presented on a ballot for a special election concerning the levy of the taxes authorized by this Article must be in the following form:

[] FOR [] AGAINST

one-half percent (½%) local sales and use taxes, ~~to replace the current one-half percent (½%) State sales and use taxes that end July 1, 2003.~~ in addition to all current State and local sales and use taxes."

SECTION 1.3.(a) Effective July 1, 2002, G.S. 105-520 reads as rewritten:

"§ 105-520. Distribution of taxes.

(a) Point of Origin. – The Secretary must, on a ~~monthly~~ quarterly basis, allocate to each taxing county one-half of the net proceeds of the tax collected in that county under this Article. If the Secretary collects taxes under this Article in a ~~month~~ quarter and the taxes cannot be identified as being attributable to a particular taxing county, the

1 Secretary must allocate one-half of the net proceeds of these taxes among the taxing
2 counties in proportion to the amount of taxes collected in each county under this Article
3 in that ~~month-quarter~~.

4 (b) Per Capita. – The Secretary must, on a ~~monthly-quarterly~~ basis, allocate the
5 remaining net proceeds of the tax collected under this Article among the taxing counties
6 on a per capita basis according to the most recent annual population estimates certified
7 to the Secretary by the State Budget Officer. The Secretary must then adjust the amount
8 allocated to each county as provided in G.S. 105-486(b).

9 (c) Distribution Between Counties and Cities. – The Secretary must divide and
10 distribute the funds allocated under this section each ~~month-quarter~~ between each taxing
11 county and the municipalities located in the county in accordance with the method by
12 which the one percent (1%) sales and use taxes levied in that county pursuant to Article
13 39 of this Chapter or Chapter 1096 of the 1967 Session Laws are distributed. No
14 municipality may receive any funds under this subsection for a ~~month-quarter~~ if it is not
15 entitled to a distribution under G.S. 105-501 for the same ~~month-quarter~~."

16 **SECTION 1.3.(b)** This section is repealed effective July 1, 2003.

17 **SECTION 1.4.(a)** G.S. 105-521 reads as rewritten:

18 **"§ 105-521. Transitional local government hold harmless.**

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

20 (1) Local government. – A county or municipality that received a
21 distribution of local sales taxes in the most recent fiscal year for which
22 a local sales tax share has been calculated.

23 (2) Local sales tax share. – A local government's percentage share of the
24 two-cent (2¢) sales taxes distributed during the most recent fiscal year
25 for which data are available.

26 (3) Repealed reimbursement amount. – The total amount a local
27 government would have been entitled to receive during the ~~2002-2003~~
28 2001-2002 fiscal year under G.S. 105-164.44C, 105-275.1, 105-275.2,
29 105-277.001, and 105-277.1A, if the Governor had not withheld any
30 distributions under those sections.

31 (4) Two-cent (2¢) sales taxes. – The first one-cent (1¢) sales and use tax
32 authorized in Article 39 of this Chapter and in Chapter 1096 of the
33 1967 Session Laws, the first one-half cent (½¢) local sales and use tax
34 authorized in Article 40 of this Chapter, and the second one-half cent
35 (½¢) local sales and use tax authorized in Article 42 of this Chapter.

36 (b) ~~Distributions.~~—2002-2003 Distribution. – On or before September 15, 2002,
37 the Secretary must multiply each local government's local sales tax share by the sum of
38 three hundred nine million ten thousand six hundred sixty-seven dollars (\$309,010,667).
39 If the resulting amount is less than one hundred percent (100%) of the local
40 government's repealed reimbursement amount, the Secretary must pay the local
41 government the difference, but not less than one hundred dollars (\$100.00).

42 (c) Subsequent Distributions. – On or before September 15, 2003, and each
43 September 15 thereafter, the Secretary must multiply each local government's local sales
44 tax share by the estimated amount that all local governments would be expected to

1 receive during the current fiscal year under G.S. 105-520 if every county levied the tax
2 under this Article for the year. If the resulting amount is less than one hundred percent
3 (100%) of the local government's repealed reimbursement amount, the Secretary must
4 pay the local government the difference, but not less than one hundred dollars
5 (\$100.00).

6 (d) Estimated Amounts. – On or before May 1, 2003, and each May 1 thereafter,
7 the Office of State Budget and Management and the Fiscal Research Division of the
8 General Assembly must each submit to the Secretary and to the General Assembly a
9 final projection of the estimated amount that all local governments would be expected to
10 receive during the upcoming fiscal year under G.S. 105-520 if every county levied the
11 tax under this Article for the fiscal year. If the Secretary does not use the lower of the
12 two final projections to make the calculation required by this subsection, the Secretary
13 must report the reasons for this decision to the Joint Legislative Commission on
14 Governmental Operations within 60 days after receiving the projections.

15 (e)(e) Source of Funds. – The Secretary must draw the funds distributed under this
16 section from sales and use tax collections under Article 5 of this Chapter.

17 (d)(f) Reports. – The Secretary must report to the Revenue Laws Study Committee
18 by January 31, ~~2004, 2003,~~ and each January 31 thereafter, the amount distributed under
19 this section for the current fiscal year."

20 **SECTION 1.4.(b)** G.S. 105-521 is repealed effective July 1, 2012.

21 **SECTION 1.5.** Effective for taxable years beginning on or after January 1,
22 2002, G.S. 105-269.14(b) reads as rewritten:

23 "(b) Distribution. – The Secretary must distribute ~~one-third a portion~~ of the net use
24 tax proceeds collected under this section to counties and ~~cities in proportion to their~~
25 ~~total distributions under Articles 39, 40, and 42 of this Chapter and Chapter 1096 of the~~
26 ~~1967 Session Laws for the most recent period for which data is available.~~ cities. The
27 portion to be distributed to all counties and cities shall be the total net use tax proceeds
28 collected under this section multiplied by a fraction. The numerator of the fraction is the
29 local use tax proceeds collected under this section. The denominator of the fraction is
30 the total use tax proceeds collected under this section. The Secretary shall then
31 distribute this portion to the counties and cities in proportion to their total distributions
32 under Articles 39, 40, 42, 43, and 44 of this Chapter and Chapter 1096 of the 1967
33 Session Laws for the most recent period for which data are available. The provisions of
34 G.S. 105-472, 105-486, and 105-501 do not apply to tax proceeds distributed under this
35 section."

36 **SECTION 1.6.** G.S. 159-15 reads as rewritten:

37 "**§ 159-15. Amendments to the budget ordinance.**

38 Except as otherwise restricted by law, the governing board may amend the budget
39 ordinance at any time after the ordinance's adoption in any manner, so long as the
40 ordinance, as amended, continues to satisfy the requirements of G.S. 159-8 and 159-13.
41 However, except as otherwise provided in this section, no amendment may increase or
42 reduce a property tax levy or in any manner alter a property taxpayer's liability, unless
43 the board is ordered to do so by a court of competent jurisdiction, or by a State agency
44 having the power to compel the levy of taxes by the board.

1 If after July 1 the local government receives additional and unanticipated revenues,
2 the governing body may, before January 1, amend the budget ordinance to reduce the
3 property tax levy to account for the unanticipated revenues.

4 The governing board by appropriate resolution or ordinance may authorize the
5 budget officer to transfer moneys from one appropriation to another within the same
6 fund subject to such limitations and procedures as it may prescribe. Any such transfers
7 shall be reported to the governing board at its next regular meeting and shall be entered
8 in the minutes."

9 **SECTION 1.7.** Section 34.14(b) of S.L. 2001-424 reads as rewritten:

10 "**SECTION 34.14.(b)** Notwithstanding the provisions of G.S. 105-466(c), a tax
11 levied during the ~~2003-2002~~ calendar year under Article 44 of Chapter 105 of the
12 General Statutes, as enacted by this act, may become effective on the first day of any
13 calendar month during 2002 beginning on or after July 1, 2003.~~August 1, 2002.~~
14 Notwithstanding the provisions of G.S. 105-466(c), if a county levies a tax during the
15 ~~2003-2002~~ calendar year under Article 44 of Chapter 105 of the General Statutes, as
16 enacted by this act, that is to become effective on or before January 1, 2003, the county
17 is required to give the Secretary of Revenue ~~only the following notice:~~

- 18 (1) If the tax is to become effective August 1, 2002, the county must
19 notify the Secretary on or before July 15, 2002.
20 (2) If the tax is to become effective on the first day of any other calendar
21 month beginning on or before January 1, 2003, the county must give
22 the Secretary 30 days' advance notice of the tax levy.

23 For taxes ~~levied on or~~that are to become effective after January 1, ~~2004,2003,~~ the
24 provisions of G.S. 105-466(c) apply."

25 **SECTION 1.8.** Section 34.15(b) of S.L. 2001-424 reads as rewritten:

26 "**SECTION 34.15.(b)** This section becomes effective July 1, ~~2003,2002.~~"

27 **SECTION 1.9.** Notwithstanding any other provision of law, for the months
28 of August and September 2002, the administration and distribution of taxes collected
29 under Article 44 of Chapter 105 of the General Statutes shall be in accordance with this
30 section. For each of those months, the Secretary of Revenue shall create a separate
31 account for the collection of taxes under Article 44 of Chapter 105 of the General
32 Statutes. In each of those months, retailers shall report taxes collected under Article 44
33 of Chapter 105 of the General Statutes on a form separate from that on which the
34 retailer reports other sales and use taxes collected. In each of those months, the
35 Secretary shall allocate to each county that has imposed a tax under Article 44 of
36 Chapter 105 of the General Statutes a portion of the total amount of tax collected under
37 that Article. A county's allocation shall be determined by multiplying the total amount
38 of tax collected under Article 44 of Chapter 105 of the General Statutes for that month
39 by a fraction. The numerator of the fraction is the amount allocated under G.S.
40 105-472, 105-486, and 105-501 for the first quarter of the 2002-2003 fiscal year to the
41 county. The denominator of the fraction is the total amount allocated under G.S.
42 105-472, 105-486, and 105-501 for the first quarter of the 2002-2003 fiscal year to all
43 counties that have imposed a tax under Article 44 of Chapter 105 of the General

1 Statutes. The Secretary shall distribute these taxes at the end of the quarter in
2 accordance with G.S. 105-520(c).

3 **SECTION 1.10.** To the extent the Department of Revenue's nonrecurring
4 costs of implementing and administering Article 44 of Chapter 105 of the General
5 Statutes, as amended, exceed funds available in its budget for the 2002-2003 fiscal year,
6 the Department may pay the excess cost by withholding up to three hundred thousand
7 dollars (\$300,000) from collections under Subchapter VIII of Chapter 105 of the
8 General Statutes.

9 **SECTION 1.11.** The Department of Revenue may contract for supplies,
10 materials, equipment, and contractual services related to the provision of notice, the
11 creation of tax forms and instructions, and the development of computer software
12 necessitated by the amendments in this act without being subject to the requirements of
13 Article 3 or Article 8 of Chapter 143 of the General Statutes.

14 **SECTION 1.12.(a)** The title of Article 39 of Chapter 105 of the General
15 Statutes reads as rewritten:

16 "Article 39.

17 First One-Cent (1¢) Local Government Sales and Use Tax."

18 **SECTION 1.12.(b)** G.S. 105-463 reads as rewritten:

19 "**§ 105-463. Short title.**

20 This Article shall be known as the ~~Local~~ First One-Cent (1¢) Local Government
21 Sales and Use Tax Act."

22 **SECTION 1.13.(a)** The title of Article 40 of Chapter 105 of the General
23 Statutes reads as rewritten:

24 "Article 40.

25 ~~Supplemental~~ First One-Half Cent (1/2¢) Local Government Sales and Use Taxes."

26 **SECTION 1.13.(b)** G.S. 105-480 reads as rewritten:

27 "**§ 105-480. Short title.**

28 This Article shall be known as the ~~Supplemental~~ First One-Half Cent (1/2¢) Local
29 Government Sales and Use Tax Act."

30 **SECTION 1.14.(a)** The title of Article 42 of Chapter 105 of the General
31 Statutes reads as rewritten:

32 "Article 42.

33 ~~Additional Supplemental~~ Second One-Half Cent (1/2¢) Local Government Sales and
34 Use Taxes."

35 **SECTION 1.14.(b)** G.S. 105-495 reads as rewritten:

36 "**§ 105-495. Short title.**

37 This Article shall be known as the ~~Additional Supplemental~~ Second One-Half Cent
38 (1/2¢) Local Government Sales and Use Tax Act."

39 **SECTION 1.15.** Notwithstanding the provisions of G.S. 105-517(b), a
40 county may levy a tax by resolution that becomes effective on or before January 1,
41 2003, under Article 44 of Chapter 105 of the General Statutes without giving at least 10
42 days' public notice of its intent to adopt the resolution and without holding a public
43 hearing on the issue of adopting the resolution.

44

PART II. DELAY 2001 TAX BREAKS

SECTION 2.1.(a) The lead-in language of Section 34.19(a) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.19.(a)** Effective for taxable years beginning on or after January 1, ~~2002, 2003,~~ G.S. 105-134.6(c)(3) and (4) reads as rewritten:".

SECTION 2.1.(b) The lead-in language of Section 34.19(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.19.(b)** Effective for taxable years beginning on or after January 1, ~~2003, 2004,~~ G.S. 105-134.6(c)(4), as amended by this section, reads as rewritten:".

SECTION 2.2.(a) The lead-in language of Section 34.20(a) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.20.(a)** Effective for taxable years beginning on or after January 1, ~~2002, 2003,~~ G.S. 105-151.24 reads as rewritten:".

SECTION 2.2.(b) The lead-in language of Section 34.20(b) of S.L. 2001-424 reads as rewritten:

"**SECTION 34.20.(b)** Effective for taxable years beginning on or after January 1, ~~2003, 2004,~~ G.S. 105-151.24, as amended by this section, reads as rewritten:".

PART III. UPDATE IRC REFERENCE

SECTION 3.1. G.S. 105-228.90(b)(1b) reads as rewritten:

"(1b) Code. – The Internal Revenue Code as enacted as of ~~January 1, 2001, May 1, 2002,~~ including any provisions enacted as of that date which become effective either before or after that date."

SECTION 3.2.(a) G.S. 105-130.5(a) is amended by adding a new subdivision to read:

"(a) The following additions to federal taxable income shall be made in determining State net income:

...

(15) The amount allowed as a thirty percent (30%) accelerated depreciation deduction under section 168(k) or section 1400L of the Code. In addition, a taxpayer who was allowed a thirty percent (30%) accelerated depreciation deduction under section 168(k) or section 1400L of the Code in a taxable year beginning before January 1, 2002, and whose North Carolina taxable income in that earlier year reflected that accelerated depreciation deduction must add to federal taxable income in the taxpayer's first taxable year beginning on or after January 1, 2002, an amount equal to the amount of the deduction allowed in the earlier taxable year. This adjustment does not result in a difference in basis of the affected assets for State and federal income tax purposes."

SECTION 3.2.(b) G.S. 105-134.6(c) is amended by adding a new subdivision to read:

1 "(c) Additions. – The following additions to taxable income shall be made in
2 calculating North Carolina taxable income, to the extent each item is not included in
3 taxable income:

4 ...

5 (8) The amount allowed as a thirty percent (30%) accelerated depreciation
6 deduction under section 168(k) or section 1400L of the Code. In
7 addition, a taxpayer who was allowed a thirty percent (30%)
8 accelerated depreciation deduction under section 168(k) or section
9 1400L of the Code in a taxable year beginning before January 1, 2002,
10 and whose North Carolina taxable income in that earlier year reflected
11 that accelerated depreciation deduction must add to federal taxable
12 income in the taxpayer's first taxable year beginning on or after
13 January 1, 2002, an amount equal to the amount of the deduction
14 allowed in the earlier taxable year. This adjustment does not result in a
15 difference in basis of the affected assets for State and federal income
16 tax purposes."

17 **SECTION 3.2.(c)** This section is effective for taxable years beginning on or
18 after January 1, 2002.

19 **SECTION 3.3.(a)** G.S. 105-130.5(b) is amended by adding a new
20 subdivision to read:

21 "(b) The following deductions from federal taxable income shall be made in
22 determining State net income:

23 ...

24 (21) In each of the taxpayer's first five taxable years beginning on or after
25 January 1, 2005, an amount equal to twenty percent (20%) of the
26 amount added to taxable income in a previous year as accelerated
27 depreciation under subdivision (a)(15) of this section."

28 **SECTION 3.3.(b)** G.S. 105-134.6(b) is amended by adding a new
29 subdivision to read:

30 "(b) Deductions. – The following deductions from taxable income shall be made
31 in calculating North Carolina taxable income, to the extent each item is included in
32 taxable income:

33 ...

34 (17) In each of the taxpayer's first five taxable years beginning on or after
35 January 1, 2005, an amount equal to twenty percent (20%) of the
36 amount added to taxable income in a previous year as accelerated
37 depreciation under subdivision (c)(8) of this section."

38 **SECTION 3.3.(c)** This section is effective for taxable years beginning on or
39 after January 1, 2002.

40 **SECTION 3.4.(a)** G.S. 105-32.2(b) reads as rewritten:

41 "(b) Amount. – The amount of the estate tax imposed by this section is the
42 maximum credit for state death taxes allowed under section 2011 of the ~~Code~~. Code
43 without regard to the phase-out of that credit under subdivision (b)(2) of that section.

1 any property in the estate is located in a state other than North Carolina, the amount of
2 tax payable is the North Carolina percentage of the credit.

3 If the decedent was a resident of this State at death, the North Carolina percentage is
4 the net value of the estate that does not have a tax situs in another state, divided by the
5 net value of all property in the estate. If the decedent was not a resident of this State at
6 death, the North Carolina percentage is the net value of real property that is located in
7 North Carolina plus the net value of any personal property that has a tax situs in North
8 Carolina, divided by the net value of all property in the estate, unless the decedent's
9 state of residence uses a different formula to determine that state's percentage. In that
10 circumstance, the North Carolina percentage is the amount determined by the formula
11 used by the decedent's state of residence.

12 The net value of property that is located in or has a tax situs in this State is its gross
13 value reduced by any debt secured by that property. The net value of all the property in
14 the estate is its gross value reduced by any debts and deductions of the estate."

15 **SECTION 3.4.(b)** This section is effective on and after January 1, 2002, and
16 applies to the estates of decedents dying on or after that date. This section is repealed
17 effective for the estates of decedents dying on or after January 1, 2004.

18 **SECTION 3.5.** Effective for taxable years beginning on or after January 1,
19 2002, G.S. 105-134.6(b)(13) is repealed.

20 **SECTION 3.6.** Notwithstanding Section 3.1 of this act, any amendments to
21 the Internal Revenue Code enacted in 2001 that increase North Carolina taxable income
22 for the 2001 taxable year become effective for taxable years beginning on or after
23 January 1, 2002.

24 **PART IV. UNAUTHORIZED SUBSTANCE TAX EXPENSES**

25 **SECTION 4.1.** G.S. 105-501 is amended by adding a new subdivision to
26 read:
27

28 "...
29

30 In determining the net proceeds of the tax to be distributed, the Secretary shall
31 deduct from the collections to be allocated an amount equal to one-fourth of the costs
32 during the preceding fiscal year of:
33

34 ...

35 (1a) Seventy percent (70%) of the expenses of the Department of Revenue
36 in performing the duties imposed by Article 2D of this Chapter.

37"

38 **SECTION 4.2.** This Part becomes effective July 1, 2002.

39 **PART V. INSURANCE REGULATORY CHARGE**

40 **SECTION 5.(a)** The percentage rate to be used in calculating the insurance
41 regulatory charge under G.S. 58-6-25 is six and one-half percent (6.5%) for the 2002
42 calendar year.

43 **SECTION 5.(b)** This section is effective when it becomes law.
44

1
2 **PART VI. REGULATORY FEE FOR UTILITIES COMMISSION**

3
4 **SECTION 6.(a)** The percentage rate to be used in calculating the public
5 utility regulatory fee under G.S. 62-302(b)(2) is one-tenth percent (0.1%) for each
6 public utility's North Carolina jurisdictional revenues earned during each quarter that
7 begins on or after July 1, 2002.

8 **SECTION 6.(b)** The electric membership corporation regulatory fee
9 imposed under G.S. 62-302(b1) for the 2002-2003 fiscal year is two hundred thousand
10 dollars (\$200,000).

11 **SECTION 6.(c)** This section becomes effective July 1, 2002.
12

13 **PART VII. VARIOUS FEES**

14
15 **SECTION 7.1.(a)** G.S. 15A-1371(i) reads as rewritten:

16 "(i) A fee of ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00)
17 shall be paid by all persons who participate in the Community Service Parole Program.
18 That fee must be paid to the clerk of court in the county in which the parolee is released.
19 The fee must be paid in full within two weeks unless the Post-Release Supervision and
20 Parole Commission, upon a showing of hardship by the person, allows ~~him~~ the person
21 additional time to pay the fee. The parolee may not be required to pay the fee before ~~he~~
22 the person begins the community service unless the Post-Release Supervision and
23 Parole Commission specifically orders that ~~he~~ the person do so. Fees collected under
24 this subsection shall be deposited in the General Fund. The fee imposed under this
25 ~~section~~ subsection may be paid as prescribed by the supervising parole officer."

26 **SECTION 7.1.(b)** G.S. 20-179.4(c) reads as rewritten:

27 "(c) A fee of ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00)
28 shall be paid by all persons serving a community service sentence. That fee shall be paid
29 to the clerk of court in the county in which the person is convicted. The fee shall be paid
30 in full within two weeks unless the court, upon a showing of hardship by the person,
31 allows additional time to pay the fee. The person may not be required to pay the fee
32 before beginning the community service unless the court specifically orders the person
33 to do so."

34 **SECTION 7.1.(c)** G.S. 143B-262.4(b) reads as rewritten:

35 "(b) Unless a fee is assessed pursuant to G.S. 20-179.4 or G.S. 15A-1371(i), a fee
36 of ~~one hundred dollars (\$100.00)~~ one hundred fifty dollars (\$150.00) shall be paid by all
37 persons who participate in the program or receive services from the program staff. Fees
38 collected pursuant to this subsection shall be deposited in the General Fund. If the
39 person is convicted in a court in this State, the fee shall be paid to the clerk of court in
40 the county in which ~~he~~ the person is convicted. If the person is participating in the
41 program as a result of a deferred prosecution or similar program, the fee shall be paid to
42 the clerk of court in the county in which the agreement is filed. Persons participating in
43 the program for any other reason shall pay the fee to the clerk of court in the county in
44 which the services are provided by the program staff. The fee shall be paid in full within

1 two weeks from the date the person is ordered to perform the community service, and
2 before ~~he begins his~~ the person may participate in the community service, service
3 program, except that:

- 4 (1) A person convicted in a court in this State may be given an extension
5 of time or allowed to begin the community service before ~~he~~ the
6 person pays the fee by the court in which ~~he~~ the person is convicted; or
7 (2) A person performing community service pursuant to a deferred
8 prosecution or similar agreement may be given an extension of time or
9 allowed to begin ~~his~~ community service before the fee is paid by the
10 official or agency representing the State in the agreement.

11 ~~Fees collected pursuant to this subsection shall be deposited in the General Fund."~~

12 **SECTION 7.1.(d)** This section becomes effective October 1, 2002, and
13 applies to fees assessed or collected on or after that date.

14 **SECTION 7.2.(a)** G.S. 15A-1343(c1) reads as rewritten:

15 "(c1) Supervision Fee. – Any person placed on supervised probation pursuant to
16 subsection (a) shall pay a supervision fee of ~~twenty dollars (\$20.00)~~ thirty dollars
17 (\$30.00) per month, unless exempted by the court. The court may exempt a person from
18 paying the fee only for good cause and upon written motion of the person placed on
19 supervised probation. No person shall be required to pay more than one supervision fee
20 per month. The court may require that the fee be paid in advance or in a lump sum or
21 sums, and a probation officer may require payment by such methods if he is authorized
22 by subsection (g) to determine the payment schedule. Supervision fees must be paid to
23 the clerk of court for the county in which the judgment was entered or the deferred
24 prosecution agreement was filed. Fees collected under this subsection shall be
25 transmitted to the State for deposit into the State's General Fund."

26 **SECTION 7.2.(b)** G.S. 15A-1368.4(f) reads as rewritten:

27 "(f) Required Supervision Fee. – The Commission shall require as a condition of
28 post-release supervision that the supervisee pay a supervision fee of ~~twenty dollars~~
29 ~~(\$20.00)~~ thirty dollars (\$30.00) per month. The Commission may exempt a supervisee
30 from this condition only if it finds that requiring payment of the fee is an undue
31 economic burden. The fee shall be paid to the clerk of superior court of the county in
32 which the supervisee was convicted. The clerk shall transmit any money collected
33 pursuant to this subsection to the State to be deposited in the State's General Fund. In no
34 event shall a supervisee be required to pay more than one supervision fee per month."

35 **SECTION 7.2.(c)** G.S. 15A-1374(c) reads as rewritten:

36 "(c) Supervision Fee. – The Commission must require as a condition of parole that
37 the parolee pay a supervision fee of ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00) per
38 month. The Commission may exempt a parolee from this condition of parole only if it
39 finds that requiring him to pay the fee will constitute an undue economic burden. The
40 fee must be paid to the clerk of superior court of the county in which the parolee was
41 convicted. The clerk must transmit any money collected pursuant to this subsection to
42 the State to be deposited in the general fund of the State. In no event shall a person
43 released on parole be required to pay more than one supervision fee per month."

1 **SECTION 7.2.(d)** This section becomes effective October 1, 2002, and
2 applies to supervision fees assessed or collected on or after that date.

3 **SECTION 7.3.(a)** Article 5 of Chapter 7A of the General Statutes is
4 amended by adding a new section to read:

5 **"§ 7A-38.7. Dispute resolution fee for cases resolved in mediation.**

6 (a) In each criminal case filed in the General Court of Justice that is resolved
7 through referral to a community mediation center, a dispute resolution fee shall be
8 assessed in the same amount as the General Court of Justice fee imposed under G.S.
9 7A-304(a)(4) for cases in the district court. Fees assessed under this section shall be
10 paid to the clerk of superior court in the county where the case was filed and remitted by
11 the clerk to the State Treasurer.

12 (b) Each criminal case filed in the General Court of Justice and resolved through
13 referral to a community mediation center shall include, as a part of the resolution, an
14 agreement on which of the parties shall be responsible for the payment of the dispute
15 resolution fee assessed under this section. Before providing the parties with a signed
16 copy of the mediation agreement, the community mediation center shall require proof
17 that the dispute resolution fee has been paid as required by subsection (a) of this
18 section."

19 **SECTION 7.3.(b)** Each community mediation center shall maintain records
20 as to the number of cases in which dispute resolution fees are assessed and paid. The
21 Mediation Network of North Carolina shall collect this information from each center
22 annually.

23 Each community mediation center shall also maintain records as to the source
24 of referral for all court-referred cases. Each center receiving State funds shall use a
25 standardized form and methodology to determine the referral source and report that
26 information annually to the Mediation Network of North Carolina.

27 The Mediation Network shall report by March 15, 2003, to the Chairs of the
28 Senate and House Appropriations Committees and the Chairs of the Senate and House
29 Appropriations Subcommittees on Justice and Public Safety on the fees collected
30 year-to-date and the sources of referral of court-referred cases during the 2002-2003
31 fiscal year.

32 **SECTION 7.3.(c)** This section becomes effective October 1, 2002, and
33 applies to cases resolved on or after that date.

34 **SECTION 7.4.(a)** G.S. 20-135.2A(e) reads as rewritten:

35 "(e) Any driver or passenger who fails to wear a seat belt as required by this
36 section shall have committed an infraction and shall pay a penalty of twenty-five dollars
37 (\$25.00). Conviction of an infraction under this section has no consequence other than
38 payment of a penalty. ~~A person found responsible for a violation of this section may not~~
39 ~~be assessed court costs."~~

40 **SECTION 7.4.(b)** This section becomes effective October 1, 2002, and
41 applies to costs assessed or collected on or after that date.

42 **SECTION 7.5.(a)** G.S. 7A-304(a)(4) reads as rewritten:

43 "(a) In every criminal case in the superior or district court, wherein the defendant
44 is convicted, or enters a plea of guilty or nolo contendere, or when costs are assessed

1 against the prosecuting witness, the following costs shall be assessed and collected,
2 except that when the judgment imposes an active prison sentence, costs shall be
3 assessed and collected only when the judgment specifically so provides, and that no
4 costs may be assessed when a case is dismissed.

5 ...

6 (4) For support of the General Court of Justice, the sum of ~~sixty-five~~
7 ~~dollars (\$65.00)~~ seventy-five dollars (\$75.00) in the district court,
8 including cases before a magistrate, and the sum of ~~seventy-two~~
9 ~~dollars (\$72.00)~~ eighty-two dollars (\$82.00) in the superior court, to be
10 remitted to the State Treasurer. The State Treasurer shall remit the sum
11 of one dollar and five cents (\$1.05) of each fee collected under this
12 subdivision to the North Carolina State Bar for the provision of
13 services described in G.S. 7A-474.4.

14"

15 **SECTION 7.5.(b)** This section becomes effective October 1, 2002, and
16 applies to costs assessed or collected on or after that date.

17 **SECTION 7.6.(a)** G.S. 15A-145(c) reads as rewritten:

18 "(c) The court shall also order that the said misdemeanor conviction be expunged
19 from the records of the court, and direct all law-enforcement agencies bearing record of
20 the same to expunge their records of the conviction. The clerk shall forward a certified
21 copy of the order to the sheriff, chief of police, or other arresting agency. The sheriff,
22 chief or head of such other arresting agency shall then transmit the copy of the order
23 with a form supplied by the State Bureau of Investigation to the State Bureau of
24 Investigation, and the State Bureau of Investigation shall forward the order to the
25 Federal Bureau of Investigation. ~~The cost of expunging such records shall be taxed~~
26 ~~against the petitioner."~~

27 **SECTION 7.6.(b)** G.S. 15A-145 is amended by adding a new subsection to
28 read:

29 "(e) A person who files a petition for expunction of a criminal record under this
30 section must pay the clerk of superior court a fee of sixty-five dollars (\$65.00) at the
31 time the petition is filed. Fees collected under this subsection shall be deposited in the
32 General Fund. This subsection does not apply to petitions filed by an indigent."

33 **SECTION 7.6.(c)** G.S. 15A-146(b) reads as rewritten:

34 "(b) The court may also order that the said entries shall be expunged from the
35 records of the court, and direct all law-enforcement agencies bearing record of the same
36 to expunge their records of the entries. The clerk shall forward a certified copy of the
37 order to the sheriff, chief of police, or other arresting agency. The sheriff, chief or head
38 of such other arresting agency shall then transmit the copy of the order with the form
39 supplied by the State Bureau of Investigation to the State Bureau of Investigation, and
40 the State Bureau of Investigation shall forward the order to the Federal Bureau of
41 Investigation. ~~The costs of expunging such records shall be taxed against the petitioner."~~

42 **SECTION 7.6.(d)** G.S. 15A-146 is amended by adding a new subsection to
43 read:

1 "(d) A person who files a petition for expunction of a criminal record under this
2 section must pay the clerk of superior court a fee of sixty-five dollars (\$65.00) at the
3 time the petition is filed. Fees collected under this subsection shall be deposited in the
4 General Fund. This subsection does not apply to petitions filed by an indigent."

5 **SECTION 7.6.(e)** G.S. 90-96 is amended by adding a new subsection to
6 read:

7 "(f) A person who files a petition for expunction of a criminal record under this
8 section must pay the clerk of superior court a fee of sixty-five dollars (\$65.00) at the
9 time the petition is filed. Fees collected under this subsection shall be deposited in the
10 General Fund. This subsection does not apply to petitions filed by an indigent."

11 **SECTION 7.6.(f)** This section becomes effective October 1, 2002, and
12 applies to petitions filed on or after that date.

13 **SECTION 7.7.(a)** G.S. 130A-5 is amended by adding the following new
14 subdivision to read:

15 "(15) To establish a fee to cover the cost of analyzing clinical Pap smear
16 specimens sent to the State Laboratory by local health departments and
17 State-owned facilities and for reporting the results of the analysis. This
18 fee shall be in addition to the charge for the Pap smear test kit."

19 **SECTION 7.7.(b)** This section is effective when it becomes law.
20

21 **PART VIII. SECURE LOCAL REVENUES**

22
23 **SECTION 8.1.** G.S. 105-113.82(d) reads as rewritten:

24 "(d) Time. – The revenue shall be distributed to cities and counties within 60 days
25 after March 31 of each year. The General Assembly finds that the revenue distributed
26 under this section is local revenue, not a State expenditure, for the purpose of Section
27 5(3) of Article III of the North Carolina Constitution. Therefore, the Governor may not
28 reduce or withhold the distribution."

29 **SECTION 8.2.** G.S. 105-116.1(b) reads as rewritten:

30 "(b) Distribution. – The Secretary must distribute to the cities part of the taxes
31 collected under this Article on electric power companies. Each city's share for a
32 calendar quarter is the percentage distribution amount for that city for that quarter minus
33 one-fourth of the city's hold-back amount and one-fourth of the city's proportionate
34 share of the annual cost to the Department of administering the distribution. The
35 Secretary must make the distribution within 75 days after the end of each calendar
36 quarter. The General Assembly finds that the revenue distributed under this section is
37 local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of
38 the North Carolina Constitution. Therefore, the Governor may not reduce or withhold
39 the distribution."

40 **SECTION 8.3.** G.S. 105-187.44(b) reads as rewritten:

41 "(b) Distribution. – Within 75 days after the end of each calendar quarter, the
42 Secretary must distribute to the cities part of the tax proceeds collected under this
43 Article during that quarter. The amount to be distributed to a city is one-half of the
44 amount of tax attributable to that city for that quarter under subsection (a) of this

1 section. The General Assembly finds that the revenue distributed under this section is
2 local revenue, not a State expenditure, for the purpose of Section 5(3) of Article III of
3 the North Carolina Constitution. Therefore, the Governor may not reduce or withhold
4 the distribution."

5 **SECTION 8.4.** G.S. 105-164.44F is amended by adding a new subsection to
6 read:

7 "(f) Nature. – The General Assembly finds that the revenue distributed under this
8 section is local revenue, not a State expenditure, for the purpose of Section 5(3) of
9 Article III of the North Carolina Constitution. Therefore, the Governor may not reduce
10 or withhold the distribution."

11 **SECTION 8.5.** G.S. 136-41.1 is amended by adding a new subsection to
12 read:

13 "(d) Nature. – The General Assembly finds that the revenue distributed under this
14 section is local revenue, not a State expenditure, for the purpose of Section 5(3) of
15 Article III of the North Carolina Constitution. Therefore, the Governor may not reduce
16 or withhold the distribution."

17 **SECTION 8.6.** G.S. 143-25 reads as rewritten:

18 "**§ 143-25. Maintenance appropriations dependent upon adequacy of revenues to**
19 **support them.**

20 (a) All maintenance appropriations now or hereafter made are hereby declared to
21 be maximum, conditional and proportionate appropriations, the purpose being to make
22 the appropriations payable in full in the amounts named herein if necessary and then
23 only in the event the aggregate revenues collected and available during each fiscal year
24 of the biennium for which such appropriations are made, are sufficient to pay all of the
25 appropriations in full; otherwise, the said appropriations shall be deemed to be payable
26 in such proportion as the total sum of all appropriations bears to the total amount of
27 revenue available in each of said fiscal years. ~~The~~ Except as provided in subsection (b)
28 of this section, the Director of the Budget is ~~hereby~~ given full power and authority to
29 examine and survey the progress of the collection of the revenue out of which such
30 appropriations are to be made, and to declare and determine the amounts that can be,
31 during each quarter of each of the fiscal years of the biennium properly allocated to
32 each respective appropriation. In making such examination and survey, ~~he~~ the Director
33 of the Budget shall receive estimates of the prospective collection of revenues from the
34 Secretary of Revenue and every other revenue collecting agency of the State. The
35 Director of the Budget may reduce all of said appropriations pro rata when necessary to
36 prevent an overdraft or deficit to the fiscal period for which such appropriations are
37 made. The Governor may also reduce all of said appropriations pursuant to Article III,
38 Section 5(3) of the Constitution in accordance with subsection (b) of this section, after
39 consulting with the Joint Legislative Commission on Governmental Operations under
40 G.S. 120-76(8) if prior consultation is required by that section. The purpose and policy
41 of this Article are to provide and insure that there shall be no overdraft or deficit in the
42 general fund of the State at the end of the fiscal period, growing out of appropriations
43 for maintenance and the Director of the Budget is directed and required to so administer
44 this Article as to prevent any such overdraft or deficit. Prior to taking any action under

1 this section to reduce appropriations pro rata, the Governor may consult with the
2 Advisory Budget Commission.

3 (b) The General Assembly recognizes that it has required units of local
4 government to adopt and maintain annual balanced budgets and take other steps to
5 assure financially sound operations under the Local Government Budget and Fiscal
6 Control Act and other provisions of Chapter 159 of the General Statutes. Accordingly,
7 the General Assembly finds that in order to satisfy those statutory requirements and
8 provide adequate services to their citizens, units of local government must be able to
9 rely on the funds and local revenue sources the General Assembly has provided.

10 It is the intent of the General Assembly that funds that have been collected by the
11 State on behalf of local governments and funds that the General Assembly has
12 appropriated or otherwise committed to local governments shall not be reduced except
13 as provided in this section. In exercising the powers contained in Section 5(3) of Article
14 III of the North Carolina Constitution, the Governor shall not withhold from distribution
15 funds that have been collected by the State on behalf of local governments or funds that
16 the General Assembly has appropriated or otherwise committed to local governments
17 unless, after making adequate provision for the prompt payment of principal of and
18 interest on bonds and notes of the State according to their terms, the Governor has
19 exhausted all other sources of revenue of the State including surplus remaining in the
20 treasury at the beginning of the fiscal period.

21 This subsection does not authorize the Governor to withhold revenues from taxes
22 levied by units of local governments and collected by the State. The General Assembly
23 recognizes that under Section 19 of Article I of the North Carolina Constitution and
24 under the Due Process Clause of the United States Constitution, the State is prohibited
25 from taking local tax revenue."

26 **SECTION 8.7.** The provisions of this Part are severable. If any provision of
27 this Part is held invalid by a court of competent jurisdiction, the invalidity does not
28 affect other provisions of the Part that can be given effect without the invalid provision.
29

30 **PART IX. EFFECTIVE DATE**

31
32 **SECTION 9.** Except as otherwise provided, this act is effective when it
33 becomes law. Notwithstanding G.S. 105-163.15 and G.S. 105-163.41, no addition to
34 tax may be made under those statutes for a taxable year beginning on or after January 1,
35 2002, and before January 1, 2003, with respect to an underpayment of corporate or
36 individual income tax to the extent the underpayment was created or increased by this
37 act.