

ATTACHMENT 1

Suggested Statutory Provisions and Constitutional Amendment to secure the local reimbursements and state collected local taxes

1. Statutory provisions

The language in “A” should be placed in every section levying taxes and distributing all or a portion of the proceeds to local governments—utility franchise taxes, Powell bill funds, beer and wine tax, etc. It will need to be modified to fit the particular tax section.)

- A. This tax [or a portion of the tax] is levied for the benefit of and on behalf of units of local government to the same extent and manner as if the levies were made by the respective local governing bodies.

(Explanatory Note: This language is taken from the previously repealed intangibles tax statutes, G.S. 105-198. The N.C. Supreme Court held in Yokley v. Clark, 262 N.C. 218 (1964), that in using this language the General Assembly had levied a local tax.)

The language in “B” should be added as a new section in the Executive Budget Act.

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

It is the intent of the General Assembly that funds that have been collected by the State for units of local government or that otherwise have been committed by the General Assembly to units of local government by statute or any uncodified act shall not be reduced except as provided in this section. The Governor, in exercising the powers contained in Article III, Section 5(3) of the Constitution necessary to insure that the State does not incur a deficit during the period, or otherwise, shall not withhold from distribution funds that have been collected by the State for units of local government or that otherwise have been committed by the General Assembly to units of local government by statute or any uncodified act, unless he shall have exhausted all other sources of revenue of the state including surplus remaining in the

Treasury at the beginning of the period, and unless authorized by an act of the General Assembly.

This section shall not be construed to authorize the Governor to withhold revenues from taxes the General Assembly has authorized governing bodies of units of local government to levy.

(Explanatory Note: The Constitution says that the General Assembly shall provide for the organization and operation of local government units. Article VII, Section 1. The General Assembly has abundant authority under the constitutional scheme to specify the order in which funds may be used or applied by the Governor to carry out his constitutional responsibility to maintain a balanced budget, at least so far as essential funds specifically allocated for local government units are concerned.)

2. Constitutional Amendment to be added to Article III, Section 5(3) of the Constitution

(3) Budget. The Governor shall prepare and recommend to the General Assembly a comprehensive budget of the anticipated revenue and proposed expenditures of the State for the ensuing fiscal period. The budget as enacted by the General Assembly shall be administered by the Governor.

The total expenditures of the State for the fiscal period covered by the budget shall not exceed the total of receipts during that fiscal period and the surplus remaining in the State Treasury at the beginning of the period. To insure that the State does not incur a deficit for any fiscal period, the Governor shall continually survey the collection of the revenue and shall effect the necessary economies in State expenditures, after first making adequate provision for the prompt payment of the principal of and interest on bonds and notes of the State according to their terms, whenever he determines that receipts during the fiscal period, when added to any surplus remaining in the State Treasury at the beginning of the period, will not be sufficient to meet budgeted expenditures. This section shall not be construed to impair the power of the State to issue its bonds and notes within the limitations imposed in Article V of this Constitution, nor to impair the obligation of bonds and notes of the State now outstanding or issued hereafter. **The Governor may not withhold from distribution funds that have been collected by the State for units of local government or that otherwise have been committed by the General Assembly to units of local government by statute or any uncodified act unless authorized by an act of the General Assembly.**

(Note: The **bold underlined** language is proposed to be added. The rest is existing language.)