Article 42.

Second One-Half Cent (1/2¢) Local Government Sales and Use Tax.

§ 105-495. Short title.

This Article shall be known as the Second One-Half Cent (1/2¢) Local Government Sales and Use Tax Act. (1985 (Reg. Sess., 1986), c. 906, s. 1; 2002-123, s. 9(b).)

§ 105-496. Purpose and intent.

It is the purpose of this Article to afford the counties and cities of this State an opportunity to obtain an added source of revenue with which to meet their growing financial needs, and to reduce their reliance on other revenues, such as the property tax and federal revenue sharing, by providing all counties of the State that are subject to this Article with authority to levy one-half percent (1/2%) sales and use taxes. (1985 (Reg. Sess., 1986), c. 906, s. 1.)

§ 105-497. Limitations.

This Article applies only to counties that levy one percent (1%) sales and use taxes under Article 39 of this Chapter or under Chapter 1096 of the 1967 Session Laws and also levy one-half percent (1/2%) local sales and use taxes under Article 40 of this Chapter. (1985 (Reg. Sess., 1986), c. 906, s. 1.)

§ 105-498. Levy and collection of additional taxes.

Any county subject to this Article may levy one-half percent (1/2%) local sales and use taxes in addition to any other State and local sales and use taxes levied pursuant to law. Except as provided in this Article, the adoption, levy, collection, distribution, administration, and repeal of these additional taxes shall be in accordance with Article 39 of this Chapter. In applying the provisions of Article 39 of this Chapter to this Article, references to "this Article" mean Article 42 of this Chapter. The exemption for building materials in G.S. 105-468.1 does not apply to taxes levied under this Article. (1985 (Reg. Sess., 1986), c. 906, s. 1; 1993, c. 485, s. 27.)

§ 105-499. Form of ballot.

(a) The form of the question to be presented on a ballot for a special election concerning the additional taxes authorized by this Article shall be: "FOR one-half percent (1/2%) local sales and use taxes in addition to the current one and one-half percent (1 1/2%) local sales and use taxes" or "AGAINST one-half percent (1/2%) local sales and use taxes in addition to the current one and one-half percent (1 1/2%) local sales and use taxes."

(b) The form of the question to be presented on a ballot for a special election concerning the repeal of any additional taxes levied pursuant to this Article shall be: "FOR repeal of the additional one-half percent (1/2%) local sales and use taxes, thus reducing local sales and use taxes to one and one-half percent (1 1/2%)" or "AGAINST repeal of the additional one-half percent (1/2%) local sales and use taxes, thus reducing local sales and use taxes to one and one-half percent (1 1/2%)." (1985 (Reg. Sess., 1986), c. 906, s. 1.)

§ 105-500: Repealed by Session Laws 1991, c. 689, s. 318.

§ 105-501. Distribution of additional taxes.

(a) Method. – The Secretary must, on a monthly basis, allocate to each taxing county the net proceeds of the additional one-half percent (1/2%) sales and use taxes collected in that county

under this Article. If the Secretary collects taxes under this Article in a month and the taxes cannot be identified as being attributable to a particular taxing county, the Secretary must allocate the net proceeds of these taxes among the taxing counties in proportion to the amount of taxes collected in each county under this Article in that month.

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

(b) Deductions. – The costs incurred by the State to provide the functions listed in this subsection that support local governments are deductible from the collections to be allocated each month for distribution.

(1) The Department's cost of the following for the preceding month must be deducted and credited to the Department:
   a. The Local Government Division.
   b. The Property Tax Commission.

(1a) The Department of State Treasurer's costs for personnel and operations of the Local Government Commission.

(2) One-twelfth of the costs of the following for the preceding fiscal year must be deducted and credited to the General Fund:
   a. The School of Government at the University of North Carolina at Chapel Hill in operating a training program in property tax appraisal and assessment.
   b. Repealed by Session Laws 2011-145, s. 27.1(b), effective July 1, 2012.
   c. Seventy percent (70%) of the expenses of the Department of Revenue in performing the duties imposed by Article 2D of this Chapter. (1985 (Reg. Sess., 1986), c. 906, s. 1; 1987, c. 832, s. 8; 1987 (Reg. Sess., 1988), c. 1082, s. 4; 1995, c. 41, s. 4; c. 370, s. 1; 1999-458, s. 9; 2001-427, s. 13(d); 2002-126, s. 30D(a); 2006-264, s. 29(f); 2007-323, s. 31.16.4(b); 2010-31, s. 26.1(a); 2011-145, s. 27.1(a), (b).)

§ 105-502. Use of additional tax revenue by counties.

(a) Restriction. - The county must use sixty percent (60%) of the amount of revenue specified in this subsection for public school capital outlay purposes as defined in G.S. 115C-426(f) or to retire any indebtedness incurred by the county for these purposes during the period beginning five years prior to the date the taxes took effect:

(1) The amount of revenue the county receives under this Article.

(2) If the amount allocated to the county under G.S. 105-486 is greater than the amount allocated to the county under G.S. 105-501(a), the difference between the two amounts.

(b) Exception. - The Local Government Commission may, upon petition by a county, authorize a county to use part or all of the revenue, otherwise required by subsection (a) to be used for public school capital outlay purposes, for any 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 its public school capital 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 capital 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 capital needs of the petitioning county and the percentage of revenue otherwise restricted by subsection (a) that may be used by the petitioning county for any lawful purpose.

Decisions of the Commission allowing counties to use a percentage of the revenue that would otherwise be restricted under subsection (a) for any lawful purpose are final and continue in effect until the restrictions expire. A county whose petition is denied, in whole or in part, by the Commission may subsequently submit a new petition to the Commission.

(c) Reserve Fund. - A county may expend part or all of the revenue restricted for public school capital needs pursuant to subsection (a) in the fiscal year in which the revenue is received, or the county may place part or all of this revenue in a capital reserve fund. A county must specifically identify revenue placed in a reserve fund in accordance with Chapter 159 of the General Statutes.

(d) Taxes in Effect. - For purposes of this section in determining the number of fiscal years in which one-half percent (1/2%) sales and use taxes levied under this Article have been in effect in a county, these taxes are considered to be in effect only from the effective date of the levy of these taxes and are considered to be in effect for a full fiscal year during the first year in which these taxes were in effect, regardless of the number of months in that year in which the taxes were actually in effect. (1985 (Reg. Sess., 1986), c. 906, s. 1; 1987, c. 622, s. 11; 1993, c. 255, ss. 2, 4; 1998-186, s. 2; 2008-134, s. 13(a); 2009-395, s. 2.)

§ 105-503: Recodified as § 115C-440.1 by Session Laws 1995 (Regular Session, 1996), c. 666, s. 4.

§ 105-504: Repealed by Session Laws 1998-98, s. 32.

§ 105-505. Reserved for future codification purposes.