

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

H

3

**HOUSE BILL 685
Committee Substitute Favorable 7/18/01
Senate Finance Committee Substitute Adopted 8/7/01**

Short Title: Occupancy Tax for Certain Counties.

(Local)

Sponsors:

Referred to:

March 19, 2001

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE ANSON, MONTGOMERY, AND STANLY COUNTIES
2 TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX, TO
3 AUTHORIZE BEECH MOUNTAIN TO INCREASE ITS OCCUPANCY TAX, TO
4 MAKE ADMINISTRATIVE CHANGES TO BEECH MOUNTAIN'S
5 OCCUPANCY TAX, TO REPEAL THE AVERY COUNTY OCCUPANCY TAX,
6 AND TO AUTHORIZE A TAXING DISTRICT IN AVERY COUNTY TO LEVY
7 A ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.
8

9 The General Assembly of North Carolina enacts:

PART I. COUNTY ADMINISTRATIVE PROVISIONS

SECTION 1. G.S. 153A-155 reads as rewritten:

10 **"§ 153A-155. Uniform provisions for room occupancy taxes.**

11 (a) Scope. – This section applies only to counties the General Assembly has
12 authorized to levy room occupancy taxes.
13

14 (b) Levy. – A room occupancy tax may be levied only by resolution, after not
15 less than 10 days' public notice and after a public hearing held pursuant thereto. A room
16 occupancy tax shall become effective on the date specified in the resolution levying the
17 tax. That date must be the first day of a calendar month, however, and may not be
18 earlier than the first day of the second month after the date the resolution is adopted.
19

20 (c) Collection. – Every operator of a business subject to a room occupancy tax
21 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
22 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
23 be stated and charged separately from the sales records and shall be paid by the
24 purchaser to the operator of the business as trustee for and on account of the taxing
25 county. The tax shall be added to the sales price and shall be passed on to the purchaser
26 instead of being borne by the operator of the business. The taxing county shall design,
27 print, and furnish to all appropriate businesses and persons in the county the necessary
28 forms for filing returns and instructions to ensure the full collection of the tax. An

1 operator of a business who collects a room occupancy tax may deduct from the amount
2 remitted to the taxing county a discount equal to the discount the State allows the
3 operator for State sales and use tax.

4 (d) Administration. – The taxing county shall administer a room occupancy tax it
5 levies. A room occupancy tax is due and payable to the county finance officer in
6 monthly installments on or before the 15th day of the month following the month in
7 which the tax accrues. Every person, firm, corporation, or association liable for the tax
8 shall, on or before the 15th day of each month, prepare and render a return on a form
9 prescribed by the taxing county. The return shall state the total gross receipts derived in
10 the preceding month from rentals upon which the tax is levied. A room occupancy tax
11 return filed with the county finance officer is not a public record and may not be
12 disclosed except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

13 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to
14 file a room occupancy tax return or pay a room occupancy tax as required by law is
15 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a
16 return for State sales and use taxes. The governing board of the taxing county has the
17 same authority to waive the penalties for a room occupancy tax that the Secretary of
18 Revenue has to waive the penalties for State sales and use taxes.

19 (f) Repeal or Reduction. – A room occupancy tax levied by a county may be
20 repealed or reduced by a resolution adopted by the governing body of the county.
21 Repeal or reduction of a room occupancy tax shall become effective on the first day of a
22 month and may not become effective until the end of the fiscal year in which the
23 resolution was adopted. Repeal or reduction of a room occupancy tax does not affect a
24 liability for a tax that was attached before the effective date of the repeal or reduction,
25 nor does it affect a right to a refund of a tax that accrued before the effective date of the
26 repeal or reduction.

27 (g) This section applies only to the Avery County Room Tax District and to
28 Anson, Avery, Brunswick, Craven, Currituck, Davie, Granville, Madison, Montgomery,
29 Nash, Person, Randolph, Scotland, Stanly, and Transylvania Counties."

30 PART II. ANSON COUNTY

31 **SECTION 2.** Anson Occupancy Tax. (a) Authorization and Scope. The
32 Anson County Board of Commissioners may levy a room occupancy tax of up to three
33 percent (3%) of the gross receipts derived from the rental of any room, lodging, or
34 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
35 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
36 This tax is in addition to any State or local sales tax. This tax does not apply to
37 accommodations furnished by nonprofit charitable, educational, or religious
38 organizations when furnished in furtherance of their nonprofit purpose.

39 **SECTION 2.(b)** Administration. A tax levied under this section shall be
40 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
41 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

1 **SECTION 2.(c)** Distribution and Use of Tax Revenue. Anson County shall,
2 on a quarterly basis, remit the net proceeds of the occupancy tax to the Anson Tourism
3 Development Authority. The Authority shall use at least two-thirds of the funds
4 remitted to it under this subsection to promote travel and tourism in Anson County and
5 shall use the remainder for tourism-related expenditures.

6 The following definitions apply in this subsection:

- 7 (1) Net proceeds. – Gross proceeds less the cost to the county of
8 administering and collecting the tax, as determined by the finance
9 officer, not to exceed three percent (3%) of the first five hundred
10 thousand dollars (\$500,000) of gross proceeds collected each year and
11 one percent (1%) of the remaining gross receipts collected each year.
- 12 (2) Promote travel and tourism. – To advertise or market an area or
13 activity, publish and distribute pamphlets and other materials, conduct
14 market research, or engage in similar promotional activities that attract
15 tourists or business travelers to the area; the term includes
16 administrative expenses incurred in engaging in these activities.
- 17 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
18 the Authority, are designed to increase the use of lodging facilities,
19 meeting facilities, and convention facilities in a county by attracting
20 tourists or business travelers to the county. The term includes
21 tourism-related capital expenditures.

22 **SECTION 3.** Anson Tourism Development Authority. (a) Appointment
23 and Membership. When the board of commissioners adopts a resolution levying a room
24 occupancy tax under this Part, it shall also adopt a resolution creating a county Tourism
25 Development Authority, which shall be a public authority under the Local Government
26 Budget and Fiscal Control Act. The resolution shall provide for the membership of the
27 Authority, including the members' terms of office, and for the filling of vacancies on the
28 Authority. At least one-third of the members must be individuals who are affiliated
29 with businesses that collect the tax in the county, and at least three-fourths of the
30 members must be individuals who are currently active in the promotion of travel and
31 tourism in the county. The board of commissioners shall designate one member of the
32 Authority as chair and shall determine the compensation, if any, to be paid to members
33 of the Authority.

34 The Authority shall meet at the call of the chair and shall adopt rules of
35 procedure to govern its meetings. The Finance Officer for Anson County shall be the ex
36 officio finance officer of the Authority.

37 **SECTION 3.(b)** Duties. The Authority shall expend the net proceeds of the
38 tax levied under this Part for the purposes provided in this Part. The Authority shall
39 promote travel, tourism, and conventions in the county, sponsor tourist-related events
40 and activities in the county, and finance tourist-related capital projects in the county.

1 **SECTION 3.(c)** Reports. The Authority shall report quarterly and at the
2 close of the fiscal year to the board of commissioners on its receipts and expenditures
3 for the preceding quarter and for the year in such detail as the board may require.

4 **PART III. MONTGOMERY COUNTY**

5 **SECTION 4.** Montgomery Occupancy Tax. (a) Authorization and Scope.
6 The Montgomery County Board of Commissioners may levy a room occupancy tax of
7 up to three percent (3%) of the gross receipts derived from the rental of any room,
8 lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar
9 place within the county that is subject to sales tax imposed by the State under G.S.
10 105-164.4(a)(3). This tax is in addition to any State or local sales tax. This tax does not
11 apply to accommodations furnished by nonprofit charitable, educational, or religious
12 organizations when furnished in furtherance of their nonprofit purpose.

13 **SECTION 4.(b)** Administration. A tax levied under this section shall be
14 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
15 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

16 **SECTION 4.(c)** Distribution and Use of Tax Revenue. Montgomery County
17 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the
18 Montgomery Tourism Development Authority. The Authority shall use at least
19 two-thirds of the funds remitted to it under this subsection to promote travel and tourism
20 in Montgomery County and shall use the remainder for tourism-related expenditures.

21 The following definitions apply in this subsection:

- 22 (1) Net proceeds. – Gross proceeds less the cost to the county of
23 administering and collecting the tax, as determined by the finance
24 officer, not to exceed three percent (3%) of the first five hundred
25 thousand dollars (\$500,000) of gross proceeds collected each year and
26 one percent (1%) of the remaining gross receipts collected each year.
- 27 (2) Promote travel and tourism. – To advertise or market an area or
28 activity, publish and distribute pamphlets and other materials, conduct
29 market research, or engage in similar promotional activities that attract
30 tourists or business travelers to the area; the term includes
31 administrative expenses incurred in engaging in these activities.
- 32 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
33 the Authority, are designed to increase the use of lodging facilities,
34 meeting facilities, and convention facilities in a county by attracting
35 tourists or business travelers to the county. The term includes
36 tourism-related capital expenditures.

37 **SECTION 5.** Montgomery Tourism Development Authority. (a)
38 Appointment and Membership. When the board of commissioners adopts a resolution
39 levying a room occupancy tax under this Part, it shall also adopt a resolution creating a
40 county Tourism Development Authority, which shall be a public authority under the
41 Local Government Budget and Fiscal Control Act. The resolution shall provide for the
42 membership of the Authority, including the members' terms of office, and for the filling

1 of vacancies on the Authority. At least one-third of the members must be individuals
2 who are affiliated with businesses that collect the tax in the county, and at least
3 three-fourths of the members must be individuals who are currently active in the
4 promotion of travel and tourism in the county. The board of commissioners shall
5 designate one member of the Authority as chair and shall determine the compensation,
6 if any, to be paid to members of the Authority.

7 The Authority shall meet at the call of the chair and shall adopt rules of
8 procedure to govern its meetings. The Finance Officer for Montgomery County shall be
9 the ex officio finance officer of the Authority.

10 **SECTION 5.(b) Duties.** The Authority shall expend the net proceeds of the
11 tax levied under this Part for the purposes provided in this Part. The Authority shall
12 promote travel, tourism, and conventions in the county, sponsor tourist-related events
13 and activities in the county, and finance tourist-related capital projects in the county.

14 **SECTION 5.(c) Reports.** The Authority shall report quarterly and at the
15 close of the fiscal year to the board of commissioners on its receipts and expenditures
16 for the preceding quarter and for the year in such detail as the board may require.

17 **PART IV. STANLY COUNTY**

18 **SECTION 6. Stanly Occupancy Tax. (a) Authorization and Scope.** The
19 Stanly County Board of Commissioners may levy a room occupancy tax of up to six
20 percent (6%) of the gross receipts derived from the rental of any room, lodging, or
21 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
22 the county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
23 This tax is in addition to any State or local sales tax. This tax does not apply to
24 accommodations furnished by nonprofit charitable, educational, or religious
25 organizations when furnished in furtherance of their nonprofit purpose.

26 **SECTION 6.(b) Administration.** A tax levied under this section shall be
27 levied, administered, collected, and repealed as provided in G.S. 153A-155. The
28 penalties provided in G.S. 153A-155 apply to a tax levied under this section.

29 **SECTION 6.(c) Distribution and Use of Tax Revenue.** Stanly County shall,
30 on a quarterly basis, remit to the City of Albemarle five-sixths of the gross proceeds of
31 the occupancy tax derived from accommodations in the City of Albemarle. The City of
32 Albemarle shall remit to the Stanly County Tourism Development Authority forty
33 percent (40%) of the proceeds it receives under this subsection. The City of Albemarle
34 shall use the remainder of the proceeds only for tourism-related expenditures.

35 Stanly County shall remit to each municipality in the county other than the
36 City of Albemarle the net proceeds of the occupancy tax derived from accommodations
37 in that municipality. Each of these municipalities shall remit to the Stanly County
38 Tourism Development Authority each year the greater of one dollar (\$1.00) per capita
39 of the municipality's population or one-half of the amount remitted to the municipality
40 under this subsection. The municipalities shall use the remaining funds received under
41 this subsection only for tourism-related expenditures in the county.

1 The county shall remit to the Stanly County Tourism Development Authority
2 the greater of twenty-five thousand dollars (\$25,000) a year or one-half of the remaining
3 net proceeds of the occupancy tax.

4 The Authority shall use the funds remitted to it under this subsection only to
5 promote travel and tourism in Stanly County.

6 Stanly County shall use the remainder of the net proceeds only for
7 tourism-related expenditures in the county.

8 **SECTION 6.(d)** Definitions. The following definitions apply in this section:

9 (1) Net proceeds. – Gross proceeds less the cost to the county of
10 administering and collecting the tax, as determined by the finance
11 officer, not to exceed an amount equal to three percent (3%) of the first
12 five hundred thousand dollars (\$500,000) of gross proceeds collected
13 each year and one percent (1%) of the remaining gross receipts
14 collected each year.

15 (2) Promote travel and tourism. – To advertise or market an area or
16 activity, publish and distribute pamphlets and other materials, conduct
17 market research, or engage in similar promotional activities that attract
18 tourists or business travelers to the area; the term includes
19 administrative expenses incurred in engaging in these activities.

20 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
21 the entity making the expenditure, are designed to increase the use of
22 lodging facilities, meeting facilities, and convention facilities in a
23 county by attracting tourists or business travelers to the county. The
24 term includes tourism-related capital expenditures.

25 **SECTION 6.(e)** Effect on Local Act. Chapter 915 of the 1991 Session Laws
26 is repealed effective on the effective date of a tax levied under this Part by Stanly
27 County.

28 **SECTION 7.** Stanly County Tourism Development Authority. As used in
29 this Part, the term "Stanly County Tourism Development Authority" means a nonprofit
30 corporation established for the purpose of promoting travel, tourism, and conventions in
31 the county, sponsoring tourist-related events and activities in the county, and financing
32 tourist-related capital projects in the county. The county and municipalities shall remit
33 funds to the Authority under this Part only pursuant to a contract that requires the
34 Authority to expend the funds to promote travel and tourism in Stanly County. The
35 contract must also require the Authority to report quarterly and at the close of the fiscal
36 year to the board of commissioners and annually to each municipality in the county on
37 its receipts and expenditures for the preceding quarter and for the year in such detail as
38 the board may require.

39 **PART V. BEECH MOUNTAIN**

40 **SECTION 8.** Chapter 376 of the 1987 Session Laws reads as rewritten:

41 "AN ACT TO AUTHORIZE THE TOWN OF BEECH MOUNTAIN TO LEVY A
42 ROOM OCCUPANCY AND TOURISM DEVELOPMENT TAX.

1 ~~"Section 1. Occupancy Tax. – The Town Council of Beech Mountain may by~~
2 ~~resolution, after not less than 10 days' public notice and after a public hearing held~~
3 ~~pursuant thereto, levy a room occupancy and tourism development tax. Collection of the~~
4 ~~tax, and liability therefor shall begin and continue only on and after the first day of a~~
5 ~~calendar month set by the Town Council of Beech Mountain in the resolution levying~~
6 ~~the tax, which in no case may be earlier than the first day of the second succeeding~~
7 ~~calendar month after the date of adoption of the resolution.~~

8 ~~The occupaney and tourism development tax that may be levied under this act shall~~
9 ~~be tax of three percent (3%) of the gross receipts derived from the rental of any room,~~
10 ~~lodging, or similar accommodation in the Town of Beech Mountain that is subject to~~
11 ~~sales tax imposed by the State under G.S. 105-164.4(3), 105-164.4(a)(3). This tax is in~~
12 ~~addition to any State or local sales tax. The tax shall tax or room occupancy tax. The tax~~
13 ~~does not apply to any room, lodging, or accommodations supplied to the same person~~
14 ~~for a period of 90 continuous days or more. The tax shall also not apply to sleeping~~
15 ~~rooms or lodgings furnished by charitable, educational, or religious institutions or non-~~
16 ~~profit nonprofit organizations.~~

17 ~~"Sec. 1.1. Additional Tax. – In addition to the tax authorized by Section 1 of this act,~~
18 ~~the Town Council of Beech Mountain may levy a room occupancy and tourism~~
19 ~~development tax of three percent (3%) of the gross receipts derived from the rental of~~
20 ~~accommodations taxable under that section. The levy, collection, administration, use,~~
21 ~~and repeal of the tax authorized by this section shall be in accordance with this act.~~
22 ~~Beech Mountain may not levy a tax under this section unless it also levies a tax under~~
23 ~~Section 1 of this act.~~

24 ~~"Sec. 2. Administration of Tax. – (a) A tax levied under this act shall be levied,~~
25 ~~administered, collected, and repealed as provided in G.S. 160A-215. The penalties~~
26 ~~provided in G.S. 160A-215 apply to a tax levied under this act. The Town of Beech~~
27 ~~Mountain shall administer a tax levied under this act. A tax levied under this act is due~~
28 ~~and payable to the Town in monthly installments on or before the 15th day of the month~~
29 ~~following the month in which the tax accrues. Every person, firm, corporation, and~~
30 ~~association liable for the tax shall, on or before the 15th day of each month, prepare and~~
31 ~~render a return on a form prescribed by the Town. The return shall state the total gross~~
32 ~~receipts derived in the preceding month from rentals upon which the tax is levied. A~~
33 ~~return filed with the Town under this act is not a public record as defined by G.S. 132-1~~
34 ~~and may not be disclosed except as required by law.~~

35 ~~(b) Any person, firm, corporation, or association who fails or refuses to file the~~
36 ~~return required by this act shall pay a penalty of ten dollars (\$10.00) for each day's~~
37 ~~omission.~~

38 ~~In case of failure or refusal to file the return or pay the tax for a period of 30 days or~~
39 ~~more after the time required for filing the return or for paying the tax, there shall be an~~
40 ~~additional tax, as a penalty, of five percent (5%) of the total tax due, for each additional~~
41 ~~month or fraction thereof until the occupaney tax is paid.~~

1 Any person who willfully attempts in any manner to evade the occupancy tax levied
2 under this act or to make a return and who willfully fails to pay the tax or make and file
3 a return shall, in addition to all other penalties provided by law, be guilty of a
4 misdemeanor and shall be punished by a fine not to exceed one thousand dollars
5 (\$1,000) or by imprisonment not to exceed six months, or both. The Town Council may,
6 for good cause shown, compromise or forgive the penalties imposed by this subsection.

7 (c) All persons, firms, corporations, and associations who rent either their own
8 dwelling or dwellings or rooms for other persons are required to submit to the Town
9 town a list of all rental properties. This list shall include the owner's name, current
10 address, and location of rental property. The list shall be submitted semi-annually on or
11 before November 30 and May 30.

12 Failure to file said ~~this~~ listing shall subject the person, firm, corporation or
13 association to a civil penalty.

14 "~~Sec. 3. Collection of Tax. (a) Every operator of a business and every individual~~
15 ~~renting his or her own property subject to the tax levied pursuant to this act shall, on and~~
16 ~~after the effective date of the levy of the tax, collect the three percent (3%) room~~
17 ~~occupancy tax.~~

18 ~~This tax shall be collected as part of the charge for the furnishing of any taxable~~
19 ~~accommodations. The tax shall be stated and charged separately from the sales records,~~
20 ~~and shall be paid by the purchaser to the operator of the business as trustee for and on~~
21 ~~account of the Town of Beech Mountain. It is the intent of this act that the room~~
22 ~~occupancy tax levied by the Town of Beech Mountain shall be added to the sales price~~
23 ~~and that the tax shall be passed on to the purchaser instead of being borne by the~~
24 ~~operator of the business. The Town shall design, print, and furnish to all appropriate~~
25 ~~businesses in the Town, the necessary forms for filing returns and instructions to ensure~~
26 ~~the full collection of the tax.~~

27 (b) ~~Collection of the tax shall be the responsibility of the Beech Mountain Tax~~
28 ~~Administrator. In his/her discretion, the Tax Administrator may proceed against an~~
29 ~~operator whose occupancy tax is delinquent, employing all remedies for collection of~~
30 ~~tax as set out in G.S. 105-367, 105-368, 105-374, and 105-375. The Tax Administrator~~
31 ~~may audit occupancy tax reports as he/she deems necessary, utilizing information~~
32 ~~available to him/her in property tax matters.~~

33 "~~Sec. 4. Discount for Payment of Taxes When Due. Every operator who pays the~~
34 ~~occupancy tax imposed by this Article shall be entitled to deduct from the amount of the~~
35 ~~tax for which he is liable and which he actually pays a discount of three percent (3%).~~
36 ~~Provided, however, the Tax Administrator may deny a taxpayer the benefits of this~~
37 ~~section for failure to pay the full tax when due as well as in cases of fraud, evasion, or~~
38 ~~failure to keep accurate and clear records as herein required. Provided, further, that in~~
39 ~~order to receive the discount the taxpayer must deduct the three percent (3%) at the time~~
40 ~~of making his monthly remittance of tax to the Town.~~

41 "~~Sec. 5. Disposition of Taxes Collected. Distribution and Use of Tax Revenue. – The~~
42 ~~Town of Beech Mountain shall retain from the gross proceeds of the tax collected an~~

1 amount sufficient to pay its direct costs for administrative and collection expenses. "Net
2 proceeds" shall mean gross proceeds less the direct costs for administrative and
3 collection expenses not to exceed three percent (3%) of the amount collected. The net
4 proceeds shall be distributed to the Town Council. The Town Council may expend the
5 funds distributed to it pursuant to this section only to further the development of travel,
6 tourism, conventions, and convention facilities in the Town. shall, on a quarterly basis,
7 remit one-third of the net proceeds collected from accommodations within Avery
8 County to the Avery County Tourism Development Authority. The Avery County
9 Tourism Development Authority shall use at least two-thirds of the proceeds distributed
10 to it to promote travel and tourism and shall use the remainder for tourism-related
11 expenditures. The Avery County Tourism Development Authority may not spend any of
12 the proceeds distributed to it under this section for tourism-related expenditures except
13 in accordance with a budget approved by the board of county commissioners.

14 The town shall remit the remaining net proceeds of the occupancy tax on a quarterly
15 basis to the Beech Mountain Tourism Development Authority. For the first seven years
16 that funds are remitted to the Beech Mountain Tourism Development Authority under
17 this section, the Authority shall use at least one-third of the funds remitted to it under
18 this section to promote travel and tourism in Beech Mountain and shall use the
19 remainder for tourism-related expenditures. For funds remitted to it under this section
20 thereafter, the Beech Mountain Tourism Development Authority shall use at least
21 two-thirds of the funds remitted to it under this section to promote travel and tourism in
22 Beech Mountain and shall use the remainder for tourism-related expenditures.

23 The following definitions apply in this section:

- 24 (1) Net proceeds. – Gross proceeds less the cost to the town of
25 administering and collecting the tax, as determined by the finance
26 officer, not to exceed three percent (3%) of the first five hundred
27 thousand dollars (\$500,000) of gross proceeds collected each year and
28 one percent (1%) of the remaining gross receipts collected each year.
- 29 (2) Promote travel and tourism. – To advertise or market an area or
30 activity, publish and distribute pamphlets and other materials, conduct
31 market research, or engage in similar promotional activities that attract
32 tourists or business travelers to the area. The term includes
33 administrative expenses incurred in engaging in the listed activities.
- 34 (3) Tourism-related expenditures. – Expenditures that, in the judgment of
35 the Tourism Development Authority, are designed to increase the use
36 of lodging facilities, meeting facilities, or convention facilities in a
37 town or to attract tourists or business travelers to the town. The term
38 includes tourism-related capital expenditures.

39 "Sec. 5.1. Beech Mountain Tourism Development Authority. – When the Beech
40 Mountain Town Council adopts a resolution levying a room occupancy tax under this
41 act, it shall also adopt a resolution creating a Beech Mountain Tourism Development
42 Authority, which shall be a public authority under the Local Government Budget and

1 Fiscal Control Act. The resolution shall provide for the membership of the Authority,
2 including the members' terms of office, and for the filling of vacancies on the Authority.
3 At least one-third of the members must be individuals who are affiliated with businesses
4 that collect the tax in the town, and at least three-fourths of the members must be
5 individuals who are currently active in the promotion of travel and tourism in the town.
6 The town council shall designate one member of the Authority as chair and shall
7 determine the compensation, if any, to be paid to members of the Authority.

8 The Authority shall meet at the call of the chair and shall adopt rules of procedure to
9 govern its meetings. The Finance Officer for Beech Mountain shall be the ex officio
10 finance officer of the Authority.

11 "Sec. 5.2. Duties. – The Authority shall expend the net proceeds of the tax
12 distributed to it under this act for the purposes provided in this act. The Authority shall
13 promote travel, tourism, and conventions in the town, sponsor tourist-related events and
14 activities in the town, and finance tourist-related capital projects in the town.

15 "Sec. 5.3. Reports. – The Authority shall report quarterly and at the close of the
16 fiscal year to the Beech Mountain Town Council on its receipts and expenditures for the
17 preceding quarter and for the year in such detail as the town council may require.

18 ~~"Sec. 6. Repeal of Levy. The Beech Mountain Town Council may by resolution~~
19 ~~repeal the levy of the room occupancy tax in Beech Mountain, but no repeal of taxes~~
20 ~~levied under this part shall be effective until the end of the fiscal year in which the~~
21 ~~repeal resolution was adopted. No liability for any tax levied under this part that~~
22 ~~attached prior to the date on which a levy is repealed shall be discharged as a result of~~
23 ~~the repeal, and no right to a refund of a tax that accrued prior to the effective date on~~
24 ~~which a levy is repealed shall be denied as a result of the repeal.~~

25 "Sec. 7. This act is effective upon ratification."

26 PART VI. CITY ADMINISTRATIVE PROVISIONS

27 SECTION 9. G.S. 160A-215 reads as rewritten:

28 "**§ 160A-215. Uniform provisions for room occupancy taxes.**

29 (a) Scope. – This section applies only to municipalities the General Assembly
30 has authorized to levy room occupancy taxes. For the purpose of this section, the term
31 "city" means a municipality.

32 (b) Levy. – A room occupancy tax may be levied only by resolution, after not
33 less than 10 days' public notice and after a public hearing held pursuant thereto. A room
34 occupancy tax shall become effective on the date specified in the resolution levying the
35 tax. That date must be the first day of a calendar month, however, and may not be
36 earlier than the first day of the second month after the date the resolution is adopted.

37 (c) Collection. – Every operator of a business subject to a room occupancy tax
38 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall
39 be collected as part of the charge for furnishing a taxable accommodation. The tax shall
40 be stated and charged separately from the sales records and shall be paid by the
41 purchaser to the operator of the business as trustee for and on account of the taxing city.
42 The tax shall be added to the sales price and shall be passed on to the purchaser instead

1 of being borne by the operator of the business. The taxing city shall design, print, and
2 furnish to all appropriate businesses and persons in the city the necessary forms for
3 filing returns and instructions to ensure the full collection of the tax. An operator of a
4 business who collects a room occupancy tax may deduct from the amount remitted to
5 the taxing city a discount equal to the discount the State allows the operator for State
6 sales and use tax.

7 (d) Administration. – The taxing city shall administer a room occupancy tax it
8 levies. A room occupancy tax is due and payable to the city finance officer in monthly
9 installments on or before the fifteenth day of the month following the month in which
10 the tax accrues. Every person, firm, corporation, or association liable for the tax shall,
11 on or before the fifteenth day of each month, prepare and render a return on a form
12 prescribed by the taxing city. The return shall state the total gross receipts derived in the
13 preceding month from rentals upon which the tax is levied. A room occupancy tax
14 return filed with the city finance officer is not a public record and may not be disclosed
15 except in accordance with G.S. 153A-148.1 or G.S. 160A-208.1.

16 (e) Penalties. – A person, firm, corporation, or association who fails or refuses to
17 file a room occupancy tax return or pay a room occupancy tax as required by law is
18 subject to the civil and criminal penalties set by G.S. 105-236 for failure to pay or file a
19 return for State sales and use taxes. The governing board of the taxing city has the same
20 authority to waive the penalties for a room occupancy tax that the Secretary of Revenue
21 has to waive the penalties for State sales and use taxes.

22 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be
23 repealed or reduced by a resolution adopted by the governing body of the city. Repeal or
24 reduction of a room occupancy tax shall become effective on the first day of a month
25 and may not become effective until the end of the fiscal year in which the resolution
26 was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for
27 a tax that was attached before the effective date of the repeal or reduction, nor does it
28 affect a right to a refund of a tax that accrued before the effective date of the repeal or
29 reduction.

30 (g) This section applies only to the Cities of Goldsboro, Greensboro, Lumberton,
31 Mount Airy, Shelby, and Statesville, to the Towns of Banner Elk, Beech Mountain,
32 Mooresville, and St. Pauls, and to the municipalities in Brunswick County."

33 PART VII. AVERY COUNTY

34 SECTION 10. Sections 1 and 1.1 of Chapter 472 of the 1993 Session Laws,
35 as amended by Sections 4 and 5 of S.L. 1997-410, are repealed.

36 SECTION 11.(a) District Created. – The Avery County Room Tax District
37 is created as a taxing district. Its jurisdiction consists of that part of Avery County that
38 is not located within the town limits of the Town of Beech Mountain. The Avery
39 County Room Tax District is a body politic and corporate and has the power to carry out
40 the provisions of this section. The Board of Commissioners of Avery County shall
41 serve, ex officio, as the governing body of the district, and the officers of the board of
42 commissioners shall serve as the officers of the governing body of the district. A simple

1 majority of the governing body constitutes a quorum, and approval by a majority of
2 those present is sufficient to determine any matter before the governing body, if a
3 quorum is present.

4 **SECTION 11.(b)** Room Tax Authorization and Scope. – The governing
5 body of the Avery County Room Tax District may levy a room occupancy tax of up to
6 two percent (2%) of the gross receipts derived from the rental of any room, lodging, or
7 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within
8 the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).
9 This tax is in addition to any State or local sales tax or room occupancy tax. This tax
10 does not apply to accommodations furnished by nonprofit charitable, educational, or
11 religious organizations. The combined district and town occupancy tax rate payable on
12 any accommodations furnished within the Avery County Room Tax District may not
13 exceed six percent (6%).

14 **SECTION 11.(c)** Administration. – A tax levied under this section shall be
15 levied, administered, collected, and repealed as provided in G.S. 153A-155 to the same
16 extent as if the Avery County Room Tax District were a county. The penalties provided
17 in G.S. 153A-155 apply to a tax levied under this section.

18 **SECTION 11.(d)** Distribution and Use of Tax Revenue. – The Avery
19 County Room Tax District shall, on a quarterly basis, distribute the net proceeds of the
20 occupancy tax to the Avery Tourism Development Authority created pursuant to this
21 Part. The Tourism Development Authority shall use at least two-thirds of the proceeds
22 distributed to it under this section to promote travel and tourism within the district and
23 shall use the remainder for tourism-related expenditures. The Tourism Development
24 Authority may not spend any of the proceeds distributed to it under this section for
25 tourism-related expenditures except in accordance with a budget approved by the board
26 of county commissioners as provided in this Part.

27 **SECTION 11.(e)** Definitions. – The following definitions apply in this Part:

- 28 (1) Net proceeds. – Gross proceeds less the cost to the district of
29 administering and collecting the tax, as determined by the finance
30 officer, not to exceed seven percent (7%) of the amount collected.
- 31 (2) Promote travel and tourism. – To advertise or market an area or
32 activity, publish and distribute pamphlets and other materials, conduct
33 market research, or engage in similar promotional activities that attract
34 tourists or business travelers to the area. The term includes
35 administrative expenses incurred in engaging in the listed activities.
- 36 (3) Tourism-related expenditures. – Expenditures that are designed to
37 increase the use of lodging facilities in the district or to attract tourists
38 or business travelers to the district. The term includes expenditures to
39 construct, maintain, operate, or market a convention center and other
40 expenditures that, in the judgment of the entity making the
41 expenditure, will facilitate and support tourism.

1 **SECTION 12.** Avery Tourism Development Authority. – (a) Appointment
2 and membership. – The board of commissioners of Avery County shall adopt a
3 resolution creating the Avery Tourism Development Authority, which shall be a public
4 authority under the Local Government Budget and Fiscal Control Act. The Authority
5 shall have 11 voting members appointed by the board of commissioners as provided in
6 this section. At least one-third of the members must be individuals who are affiliated
7 with businesses that collect the tax in the county, and at least three-fourths of the
8 members must be individuals who are currently active in the promotion of travel and
9 tourism in the county. The members of the Authority shall be:

- 10 (1) One individual recommended by the Avery County Lodging
11 Association.
- 12 (2) One individual recommended by the Avery/Banner Elk Chamber of
13 Commerce.
- 14 (3) Six individuals, one recommended by each of the following councils:
 - 15 a. Banner Elk Town Council.
 - 16 b. Beech Mountain Town Council.
 - 17 c. Crossnore Town Council.
 - 18 d. Elk Park Town Council.
 - 19 e. Newland Town Council.
 - 20 f. Sugar Mountain Village Council.
- 21 (4) One individual who resides in the Green Valley or Frank
22 Communities.
- 23 (5) One individual who resides in the Fall Creek or Old Beech Mountain
24 Communities.
- 25 (6) One individual who resides anywhere in the county.

26 The resolution shall provide for four-year terms of office for the voting
27 members, except that the initial terms of six members, in the discretion of the board of
28 commissioners, shall be set at three years to provide for staggered terms.

29 In addition to the voting members, any town or community in Avery County
30 that is not authorized to select a voting member may appoint a nonvoting member to the
31 Authority. These nonvoting members have all the rights of voting members, except the
32 right to vote.

33 The board of commissioners shall designate one voting member of the
34 Authority as chair and shall determine the compensation, if any, to be paid to members
35 of the Authority. When a vacancy occurs in any seat due to expiration of the term or
36 otherwise, the entity responsible for recommending the appointee to that seat must
37 recommend a replacement appointee within 30 days after the vacancy occurs. The board
38 of commissioners must, at its next meeting, appoint a replacement appointee for the
39 vacant seat.

40 The Authority shall meet at the call of the chair and shall adopt rules of
41 procedure to govern its meetings. The Finance Officer for Avery County shall be the ex

