



1 A tax levied under this section shall be levied, administered, collected, and repealed  
2 as provided in G.S. 153A-155. The penalties provided in G.S. 153A-155 apply to a tax  
3 levied under this section.

4 (e) **Distribution and Use of Tax Revenue.**

5 Avery County shall, on a quarterly basis, distribute the net proceeds of the  
6 occupancy tax ~~as follows: two-thirds to the Avery Tourism Development Authority~~  
7 ~~created pursuant to Section 1.1 of this act and one-third to the Avery County Chamber~~  
8 ~~of Commerce.~~ this act. The Tourism Development Authority shall use at least ~~one-half~~  
9 two-thirds of the proceeds distributed to it to promote travel and tourism and shall use  
10 the remainder for tourism-related expenditures. ~~The chamber of commerce shall use the~~  
11 ~~proceeds distributed to it only to promote travel and tourism. The chamber of commerce~~  
12 ~~shall comply with the same requirements for reporting and for submitting an annual~~  
13 ~~budget for approval by the county commissioners as are established for the Avery~~  
14 ~~Tourism Development Authority in Section 1.1 of this act.~~ The Tourism Development  
15 Authority ~~and the chamber of commerce~~ may not spend any of the proceeds distributed  
16 to ~~them~~ it under this section for tourism-related expenditures except in accordance with a  
17 ~~proposed budget and work plan~~ budget approved by the board of county commissioners  
18 as provided in ~~Section 1.1 of~~ this act.

19 (f) **Definitions.**

20 The following definitions apply in this subsection: act:

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

35 "**Sec. 1.1.** Avery Tourism Development Authority. (a) ~~Appointment~~ and  
36 ~~membership. The board of commissioners of Avery County shall adopt a resolution~~  
37 ~~creating a county Tourism Development Authority, which shall be a public authority~~  
38 ~~under the Local Government Budget and Fiscal Control Act. The Authority shall have~~  
39 ~~nine voting members appointed by the board of commissioners as follows:~~

- 40 (1) ~~Four individuals selected by the Avery County Lodging Association.~~  
41 (2) ~~Two individuals selected by the Avery County Chamber of~~  
42 ~~Commerce.~~

1           (3) ~~One member of the Avery County Board of Commissioners, to serve~~  
2           ~~ex officio.~~

3           (4) ~~Two members of the public.~~

4 ~~The resolution shall provide for four-year terms of office for the members other than the~~  
5 ~~county commissioner, except that the initial terms of four members shall be set at three~~  
6 ~~years to provide for staggered terms. The resolution shall also provide for the filling of~~  
7 ~~vacancies on the Authority. The board of commissioners shall designate one member of~~  
8 ~~the Authority as chair and shall determine the compensation, if any, to be paid to~~  
9 ~~members of the Authority.~~

10       ~~The Authority shall meet at the call of the chair and shall adopt rules of procedure to~~  
11 ~~govern its meetings. The Finance Officer for Avery County shall be the ex officio~~  
12 ~~finance officer of the Authority and shall serve as an ex officio, nonvoting member of~~  
13 ~~the Authority.~~

14       (a1) Appointment and Membership. – The board of commissioners of Avery  
15 County shall adopt a resolution creating the Avery Tourism Development Authority,  
16 which shall be a public authority under the Local Government Budget and Fiscal  
17 Control Act. The Authority shall have 11 voting members appointed by the board of  
18 commissioners as provided in this section. At least one-third of the members must be  
19 individuals who are affiliated with businesses that collect the tax in the county and at  
20 least three-fourths of the members must be individuals who are currently active in the  
21 promotion of travel and tourism in the county. The members of the Authority shall be:

22           (1) One individual recommended by the Avery County Lodging  
23           Association.

24           (2) One individual recommended by the Avery/Banner Elk Chamber of  
25           Commerce.

26           (3) Six individuals, one recommended by each of the following councils:

27           a. Banner Elk Town Council.

28           b. Beech Mountain Town Council.

29           c. Crossnore Town Council.

30           d. Elk Park Town Council.

31           e. Newland Town Council.

32           f. Sugar Mountain Village Council.

33           (4) One individual who resides in the Green Valley or Frank  
34           Communities.

35           (5) One individual who resides in the Fall Creek or Old Beech Mountain  
36           Communities.

37           (6) One individual who resides anywhere in the county.

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

41       In addition to the voting members, any town or community in Avery County that is  
42 not authorized to select a voting member may appoint a nonvoting member to the

1 Authority. These nonvoting members have all the rights of voting members, except the  
2 right to vote.

3 The board of commissioners shall designate one voting member of the Authority as  
4 chair and shall determine the compensation, if any, to be paid to members of the  
5 Authority. When a vacancy occurs in any seat due to expiration of the term or  
6 otherwise, the entity responsible for recommending the appointee to that seat must  
7 recommend a replacement appointee within 30 days after the vacancy occurs. The board  
8 of commissioners must, at its next meeting, appoint a replacement appointee for the  
9 vacant seat.

10 The Authority shall meet at the call of the chair and shall adopt rules of procedure to  
11 govern its meetings. The Finance Officer for Avery County shall be the ex officio  
12 finance officer of the Authority and shall serve as an ex officio, nonvoting member of  
13 the Authority.

14 The Authority is a public body under the open meetings law, Article 33C of Chapter  
15 143 of the General Statutes. The Authority must meet in the boardroom of the Avery  
16 County Board of Commissioners unless another public meeting space is prescribed by  
17 the board of commissioners.

18 (b) Duties. – The Authority shall expend the net proceeds of the tax levied  
19 distributed to it under this act for the purposes provided in Section 1 of this act. The  
20 Authority shall promote travel and tourism in the county and make tourism-related  
21 expenditures, as defined in Section 1 of this act.

22 (c) Annual Budget. – On or before October 1, 1997, and by May 1 of each year  
23 thereafter, May 1 of each year, the Authority shall submit for approval by to the board  
24 of commissioners a proposed budget and work plan for expenditure of the estimated tax  
25 revenues for the ensuing following fiscal period. If the proposed budget includes  
26 tourism-related expenditures, they must be itemized separately from the expenditures to  
27 promote travel and tourism. If the proposed budget is tourism-related expenditures are  
28 not approved, the Authority shall submit a revised proposed budget tourism-related  
29 expenditures for approval. The Authority may not spend any of the proceeds distributed  
30 to it under Section 1 of this act except in accordance with a proposed budget and work  
31 plan for tourism-related expenditures that have not been approved by the board of  
32 county commissioners. Expenditures to promote travel and tourism are not subject to  
33 prior approval by the board of county commissioners.

34 (d) Reports. – The Authority shall report quarterly and at the close of the fiscal  
35 year to the board of commissioners on its receipts and expenditures for the preceding  
36 quarter and for the year in such detail as the board may require."

## 37 **PART 2. INCREASE BEECH MOUNTAIN OCCUPANCY TAX**

38 **SECTION 2.** Chapter 376 of the 1987 Session Laws reads as rewritten:

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

41 "Section 1. Occupancy Tax. – The Town Council of Beech Mountain may by  
42 resolution, after not less than 10 days' public notice and after a public hearing held

1 pursuant thereto, levy a room occupancy and tourism development tax. Collection of the  
2 tax, and liability therefor shall begin and continue only on and after the first day of a  
3 calendar month set by the Town Council of Beech Mountain in the resolution levying  
4 the tax, which in no case may be earlier than the first day of the second succeeding  
5 calendar month after the date of adoption of the resolution.

6 The occupancy and tourism development tax that may be levied under this act shall  
7 be tax of up to three percent (3%) ~~four percent (4%)~~ of the gross receipts derived from  
8 the rental of any room, lodging, or similar accommodation in the Town of Beech  
9 Mountain that is subject to sales tax imposed by the State under G.S. 105-164.4(3).  
10 105-164.4(a)(3). This tax is in addition to any State or local sales tax. ~~The tax shall~~The  
11 tax does not apply to any room, lodging, or accommodations supplied to the same  
12 person for a period of 90 continuous days or more. The tax shall also not apply to  
13 sleeping rooms or lodgings furnished by charitable, educational, or religious institutions  
14 or non-profit nonprofit organizations.

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

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

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

33 ~~Any person who willfully attempts in any manner to evade the occupancy tax levied~~  
34 ~~under this act or to make a return and who willfully fails to pay the tax or make and file~~  
35 ~~a return shall, in addition to all other penalties provided by law, be guilty of a~~  
36 ~~misdemeanor and shall be punished by a fine not to exceed one thousand dollars~~  
37 ~~(\$1,000) or by imprisonment not to exceed six months, or both. The Town Council may,~~  
38 ~~for good cause shown, compromise or forgive the penalties imposed by this subsection.~~

39 (c) ~~All persons, firms, corporations, and associations who rent either their own~~  
40 ~~dwelling or dwellings or rooms for other persons are required to submit to the Town~~  
41 ~~town a list of all rental properties. This list shall include the owner's name, current~~

1 address, and location of rental property. The list shall be submitted semi-annually on or  
2 before November 30 and May 30.

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

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

9 ~~This tax shall be collected as part of the charge for the furnishing of any taxable  
10 accommodations. The tax shall be stated and charged separately from the sales records,  
11 and shall be paid by the purchaser to the operator of the business as trustee for and on  
12 account of the Town of Beech Mountain. It is the intent of this act that the room  
13 occupancy tax levied by the Town of Beech Mountain shall be added to the sales price  
14 and that the tax shall be passed on to the purchaser instead of being borne by the  
15 operator of the business. The Town shall design, print, and furnish to all appropriate  
16 businesses in the Town, the necessary forms for filing returns and instructions to ensure  
17 the full collection of the tax.~~

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

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

32 ~~"Sec. 5. Disposition of Taxes Collected. Distribution and Use of Tax Revenue. - The  
33 Town of Beech Mountain shall retain from the gross proceeds of the tax collected an  
34 amount sufficient to pay its direct costs for administrative and collection expenses. "Net  
35 proceeds" shall mean gross proceeds less the direct costs for administrative and  
36 collection expenses not to exceed three percent (3%) of the amount collected. The net  
37 proceeds shall be distributed to the Town Council. The Town Council may expend the  
38 funds distributed to it pursuant to this section only to further the development of travel,  
39 tourism, conventions, and convention facilities in the Town. shall, on a quarterly basis,  
40 remit the net proceeds of the occupancy tax to the Beech Mountain Tourism  
41 Development Authority. For the first seven years that funds are remitted to the  
42 Authority under this section, the Authority shall use at least one-third of the funds~~

1 remitted to it under this section to promote travel and tourism in Beech Mountain and  
2 shall use the remainder for tourism-related expenditures. For funds remitted to it under  
3 this section thereafter, the Authority shall use at least two-thirds of the funds remitted to  
4 it under this section to promote travel and tourism in Beech Mountain and shall use the  
5 remainder for tourism-related expenditures.

6 The following definitions apply in this section:

- 7 (1) Net proceeds. – Gross proceeds less the cost to the town 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 the listed activities.
- 17 (3) Tourism-related expenditures. – Expenditures that, in the judgment of  
18 the Tourism Development Authority, are designed to increase the use  
19 of lodging facilities, meeting facilities, or convention facilities in a  
20 town or to attract tourists or business travelers to the town. The term  
21 includes tourism-related capital expenditures.

22 "Sec. 5.1. Beech Mountain Tourism Development Authority. – When the Beech  
23 Mountain Town Council adopts a resolution levying a room occupancy tax under this  
24 act, it shall also adopt a resolution creating a town Tourism Development Authority,  
25 which shall be a public authority under the Local Government Budget and Fiscal  
26 Control Act. The resolution shall provide for the membership of the Authority,  
27 including the members' terms of office, and for the filling of vacancies on the Authority.  
28 At least one-third of the members must be individuals who are affiliated with businesses  
29 that collect the tax in the city and at least three-fourths of the members must be  
30 individuals who are currently active in the promotion of travel and tourism in the town.  
31 The town council shall designate one member of the Authority as chair and shall  
32 determine the compensation, if any, to be paid to members of the Authority.

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

36 "Sec. 5.2. Duties. – The Authority shall expend the net proceeds of the tax levied  
37 under this act for the purposes provided in this act. The Authority shall promote travel,  
38 tourism, and conventions in the town, sponsor tourist-related events and activities in the  
39 town, and finance tourist-related capital projects in the town.

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

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

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

9                   **PART 3. INCREASE BANNER ELK OCCUPANCY TAX**

10           **SECTION 3.** Sections 1 through 7 of Chapter 318 of the 1989 Session Laws,  
11 as amended by Chapter 428 of the 1993 Session Laws and by S.L. 2000-103, read as  
12 rewritten:

13       "**Section 1.** Occupancy Tax. – The Town Council of Banner Elk may levy a room  
14 occupancy and tourism development tax.

15       ~~The occupancy and tourism development tax that may be levied under this act shall~~  
16 ~~be tax of up to three percent (3%) four percent (4%) of the gross receipts derived from~~  
17 ~~the rental of any room, lodging, or similar accommodation in the Town of Banner Elk~~  
18 ~~that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is~~  
19 ~~in addition to any State or local sales tax. The tax shall does not apply to any room,~~  
20 ~~lodging, or accommodation supplied to the same person for a period of 90 continuous~~  
21 ~~days or more or to sleeping rooms or lodging furnished by charitable, educational, or~~  
22 ~~religious institutions or by nonprofit organizations.~~

23       "**Sec. 2.** Administration of Tax. – (a) A tax levied under this ~~section~~ act shall be  
24 levied, administered, collected, and repealed as provided in G.S. 160A-215. The  
25 penalties provided in G.S. 160A-215 apply to a tax levied under this ~~section~~ act.

26       (b) Repealed by S.L. 2000-103.

27       (c) All persons, firms, corporations, and associations who rent either their own  
28 dwelling or dwellings or rooms for other persons are required to submit to the town a  
29 list of all rented properties. This list shall include the owner's name and current address  
30 and the location of the rental property. The list shall be submitted semi-annually on or  
31 before November 30 and May 30. Failure to file this listing shall subject the person,  
32 firm, corporation, or association to a civil penalty of fifty dollars (\$50.00).

33       "**Sec. 3.** Repealed by S.L. 2000-103.

34       "**Sec. 4.** Repealed by S.L. 2000-103.

35       "**Sec. 5.** Distribution and Use of Tax Revenue. – The Town Council shall, on a  
36 quarterly basis, remit the net proceeds of the occupancy tax to the Banner Elk Tourism  
37 Development Authority. The Effective for taxes collected on or after October 1, 2000,  
38 the Authority shall use at least one-third of the funds remitted to it under this section to  
39 promote travel and tourism in Banner Elk and shall use the remainder for  
40 tourism-related expenditures. Effective for taxes collected on or after October 1, 2010,  
41 the Authority shall use at least two-thirds of the funds remitted to it under this section to

1 promote travel and tourism in Banner Elk and shall use the remainder for  
2 tourism-related expenditures.

3 The following definitions apply in this section:

- 4 (1) Net proceeds. – Gross proceeds less the cost to the town of  
5 administering and collecting the tax, as determined by the finance  
6 officer, not to exceed three percent (3%) of the first five hundred  
7 thousand dollars (\$500,000) of gross proceeds collected each year and  
8 one percent (1%) of the remaining gross receipts collected each year.
- 9 (2) Promote travel and tourism. – To advertise or market an area or  
10 activity, publish and distribute pamphlets and other materials, conduct  
11 market research, or engage in or sponsor similar promotional activities  
12 that attract tourists or business travelers to the area; the term includes  
13 administrative expenses incurred in engaging in the listed activities.
- 14 (3) Tourism-related expenditures. – Expenditures that, in the ~~judgement~~  
15 judgment of the Tourism Development Authority, are designed to  
16 increase the use of lodging facilities, recreational facilities, and  
17 business establishments in the town or to attract tourists or business  
18 travelers to the town. The term includes tourism-related capital  
19 expenditures and expenditures required to make the downtown tourist  
20 area and nearby green areas more accessible, attractive, and usable to  
21 pedestrian tourists, in accordance with the master plan approved by the  
22 Town Council.

23 "Sec. 6. Repealed by S.L. 2000-103.

24 "Sec. 7. Banner Elk Tourism Development Authority. – (a) Appointment and  
25 membership. – The Town of Banner Elk shall adopt a resolution creating a town  
26 Tourism Development Authority, which shall be a public authority under the Local  
27 Government Budget and Fiscal Control Act. The Authority shall be composed of five  
28 members who shall serve for staggered three-year terms. The members shall be  
29 appointed by the mayor and approved by the Town Council. Two of the members must  
30 be an owner or manager of a Banner Elk hotel, motel, or bed and breakfast and one of  
31 the other members must be a representative for Lees-McRae College. The remaining  
32 two members must be individuals who are currently active in the promotion of travel  
33 and tourism in the town. Vacancies shall be filled in the same manner as the original  
34 appointments, and members appointed to fill vacancies shall serve for the remainder of  
35 the unexpired term. The Banner Elk Town Council shall designate one member of the  
36 Authority as chair and shall determine the compensation, if any, to be paid to members  
37 of the Authority.

38 The Authority shall meet at the call of the chair and shall adopt rules of procedure to  
39 govern its meetings. The Finance Officer for Banner Elk shall be the ex officio,  
40 nonvoting finance officer of the Authority.

41 (b) Duties. – The Authority shall expend the net proceeds of the tax levied under  
42 this act for the purposes provided in Section 5 of this act. The Authority shall promote

1 travel, tourism, and conventions in the town, sponsor tourist-related events and activities  
2 in the town, and finance tourist-related capital projects in the town.

3 (c) Reports. – The Authority shall report quarterly and at the close of the fiscal  
4 year to the Banner Elk Town Council on its receipts and expenditures for the preceding  
5 quarter and for the year in such detail as the board may require."

#### 6 **PART 4. SUGAR MOUNTAIN OCCUPANCY TAX**

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

15 **SECTION 4.(b)** Administration. – A tax levied under this section must be  
16 levied, administered, collected, and repealed as provided in G.S. 160A-215. The  
17 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

18 **SECTION 4.(c)** Distribution and Use of Tax Revenue. – Sugar Mountain  
19 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the Sugar  
20 Mountain Tourism Development Authority. For the first seven years that funds are  
21 remitted to the Authority under this section, the Authority shall use at least one-third of  
22 the funds remitted to it under this section to promote travel and tourism in Sugar  
23 Mountain and shall use the remainder for tourism-related expenditures. For funds  
24 remitted to it under this section thereafter, the Authority shall use at least two-thirds of  
25 the funds remitted to it under this section to promote travel and tourism in Sugar  
26 Mountain and shall use the remainder for tourism-related expenditures.

27 **SECTION 4.(d)** Definitions. – The following definitions apply in this  
28 subsection:

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

1 area or to attract tourists or business travelers to the area. The term  
2 includes tourism-related capital expenditures.

3 **SECTION 5.** Sugar Mountain Tourism Development Authority. – (a)  
4 Appointment and Membership. – When the Village Council of Sugar Mountain adopts a  
5 resolution levying a room occupancy tax under this act, it shall also adopt a resolution  
6 creating a Sugar Mountain Tourism Development Authority, which shall be a public  
7 authority under the Local Government Budget and Fiscal Control Act. The resolution  
8 shall provide for the membership of the Authority, including the members' terms of  
9 office, and for the filling of vacancies on the Authority. At least one-third of the  
10 members must be individuals who are affiliated with businesses that collect the tax in  
11 the city, and at least three-fourths of the members must be individuals who are currently  
12 active in the promotion of travel and tourism in the village. The village council shall  
13 designate one member of the Authority as chair and shall determine the compensation,  
14 if any, to be paid to the members of the Authority.

15 The Authority shall meet at the call of the chair and shall adopt rules of  
16 procedure to govern its meetings. The Sugar Mountain Finance Officer shall be the ex  
17 officio finance officer of the Authority.

18 **SECTION 5.(b)** Duties. – The Authority shall expend the net proceeds of  
19 the tax levied under this act for the purposes provided in this act. The Authority shall  
20 promote travel, tourism, and conventions in the area, sponsor tourist-related events and  
21 activities in the area, and finance tourist-related capital projects in the area.

22 **SECTION 5.(c)** Reports. – The Authority shall report quarterly and at the  
23 close of the fiscal year to the village council on its receipts and expenditures for the  
24 preceding quarter and for the year in such detail as the village council may require.

## 25 **PART 5. AUTHORIZE OTHER AVERY TOWNS TO LEVY**

26 **SECTION 6.(a)** Authorization and Scope. – This section applies only to all  
27 other cities in Avery County that are not otherwise authorized to levy a room occupancy  
28 tax. The governing body of a city may levy a room occupancy tax of up to four percent  
29 (4%) of the gross receipts derived from the rental of any room, lodging, or  
30 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within  
31 the city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3).  
32 This tax is in addition to any State or local sales tax. This tax does not apply to  
33 accommodations furnished by nonprofit charitable, educational, or religious  
34 organizations when furnished in furtherance of their nonprofit purpose.

35 **SECTION 6.(b)** Administration. – A tax levied under this section must be  
36 levied, administered, collected, and repealed as provided in G.S. 160A-215. The  
37 penalties provided in G.S. 160A-215 apply to a tax levied under this section.

38 **SECTION 6.(c)** Distribution and Use of Tax Revenue. – The taxing city  
39 shall, on a quarterly basis, remit the net proceeds of the occupancy tax to the taxing  
40 city's Tourism Development Authority. The Authority shall use at least two-thirds of  
41 the funds remitted to it under this section to promote travel and tourism in the taxing  
42 city and shall use the remainder for tourism-related expenditures.

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

- 3           (1) City. – Defined in G.S. 153A-1.  
4           (2) Net proceeds. – Gross proceeds less the cost to the city of  
5           administering and collecting the tax, as determined by the finance  
6           officer, not to exceed three percent (3%) of the first five hundred  
7           thousand dollars (\$500,000) of gross proceeds collected each year and  
8           one percent (1%) of the remaining gross receipts collected each year.  
9           (3) Promote travel and tourism. – To advertise or market an area or  
10          activity, publish and distribute pamphlets and other materials, conduct  
11          market research, or engage in similar promotional activities that attract  
12          tourists or business travelers to the area; the term includes  
13          administrative expenses incurred in engaging in the listed activities.  
14          (4) Tourism-related expenditures. – Expenditures that, in the judgment of  
15          the Tourism Development Authority, are designed to increase the use  
16          of lodging facilities, meeting facilities, or convention facilities in a city  
17          or to attract tourists or business travelers to the city. The term includes  
18          tourism-related capital expenditures.

19           **SECTION 7.** Tourism Development Authority. – (a) Appointment and  
20 Membership. – When the city council of a taxing city adopts a resolution levying a  
21 room occupancy tax under this Part, it shall also adopt a resolution creating a Tourism  
22 Development Authority, which shall be a public authority under the Local Government  
23 Budget and Fiscal Control Act. The resolution shall provide for the membership of the  
24 Authority, including the members' terms of office, and for the filling of vacancies on the  
25 Authority. At least one-third of the members must be individuals who are affiliated  
26 with businesses that collect the tax in the city, and at least three-fourths of the members  
27 must be individuals who are currently active in the promotion of travel and tourism in  
28 the city. The city council shall designate one member of the Authority as chair and  
29 shall determine the compensation, if any, to be paid to the members of the Authority.

30           The Authority shall meet at the call of the chair and shall adopt rules of  
31 procedure to govern its meetings. The Finance Officer for the taxing city shall be the ex  
32 officio finance officer of the Authority.

33           **SECTION 7.(b)** Duties. – The Authority shall expend the net proceeds of  
34 the tax levied under this Part for the purposes provided in this Part. The Authority shall  
35 promote travel, tourism, and conventions in the city, sponsor tourist-related events and  
36 activities in the city, and finance tourist-related capital projects in the city.

37           **SECTION 7.(c)** Reports. – The Authority shall report quarterly and at the  
38 close of the fiscal year to the taxing city's city council on its receipts and expenditures  
39 for the preceding quarter and for the year in such detail as the city council may require.

40           **PART 6. UNIFORM ADMINISTRATIVE PROVISIONS**

41           **SECTION 8.** G.S. 160A-215 reads as rewritten:

42           "§ 160A-215. Uniform provisions for room occupancy taxes.

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

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

9 (c) Collection. – Every operator of a business subject to a room occupancy tax  
10 shall, on and after the effective date of the levy of the tax, collect the tax. The tax shall  
11 be collected as part of the charge for furnishing a taxable accommodation. The tax shall  
12 be stated and charged separately from the sales records and shall be paid by the  
13 purchaser to the operator of the business as trustee for and on account of the taxing city.  
14 The tax shall be added to the sales price and shall be passed on to the purchaser instead  
15 of being borne by the operator of the business. The taxing city shall design, print, and  
16 furnish to all appropriate businesses and persons in the city the necessary forms for  
17 filing returns and instructions to ensure the full collection of the tax. An operator of a  
18 business who collects a room occupancy tax may deduct from the amount remitted to  
19 the taxing city a discount equal to the discount the State allows the operator for State  
20 sales and use tax.

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

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

36 (f) Repeal or Reduction. – A room occupancy tax levied by a city may be  
37 repealed or reduced by a resolution adopted by the governing body of the city. Repeal or  
38 reduction of a room occupancy tax shall become effective on the first day of a month  
39 and may not become effective until the end of the fiscal year in which the resolution  
40 was adopted. Repeal or reduction of a room occupancy tax does not affect a liability for  
41 a tax that was attached before the effective date of the repeal or reduction, nor does it

1 affect a right to a refund of a tax that accrued before the effective date of the repeal or  
2 reduction.

3 (g) This section applies only to the Cities of Goldsboro, Greensboro, Lumberton,  
4 Mount Airy, Shelby, and Statesville, to the Towns of ~~Banner Elk, Mooresville,~~  
5 Mooresville and St. Pauls, and to the municipalities in Avery and Brunswick County-  
6 Counties."

#### 7 **PART 7. EFFECT ON OTHER LAW**

8 **SECTION 9.** Part XIII (Beech Mountain Administrative Provisions) and  
9 Part XIV (Avery County) of Senate Bill 92, 2001 General Assembly, are repealed. If  
10 Part XIII (Beech Mountain Administrative Provisions) and Part XIV (Avery County) of  
11 Senate Bill 92, 2001 General Assembly, become law after this act becomes law, then  
12 effective on the date that Senate Bill 92 becomes law, Part XIII (Beech Mountain  
13 Administrative Provisions) and Part XIV (Avery County) of Senate Bill 92, 2001  
14 General Assembly, are repealed.

#### 15 **PART 8. EFFECTIVE DATES**

16 **SECTION 10.** Sections 2 and 3 of this act become effective the first day of  
17 the third month after this act becomes law. The remainder of this act is effective when  
18 it becomes law. The existing Avery Tourism Development Authority created under  
19 Section 1.1(a) of Chapter 472 of the 1993 Session Laws, as amended by Sections 4 and  
20 5 of S.L. 1997-410, is dissolved effective upon the appointment of the members of the  
21 new Avery Tourism Development Authority created under Section 1.1(a1) of Chapter  
22 472 of the 1993 Session Laws, as amended by Sections 4 and 5 of S.L. 1997-410 and by  
23 this act. Upon dissolution of the existing Avery Tourism Development Authority,  
24 created under Section 1.1(a) of Chapter 472 of the 1993 Session Laws, as amended by  
25 Sections 4 and 5 of S.L. 1997-410, all of its assets and obligations are transferred to the  
26 new Avery Tourism Development Authority created under Section 1.1(a1) of Chapter  
27 472 of the 1993 Session Laws, as amended by Sections 4 and 5 of S.L. 1997-410 and by  
28 this act.