

**GENERAL ASSEMBLY OF NORTH CAROLINA**

**SESSION 1997**

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**4**

HOUSE BILL 418  
Committee Substitute Favorable 7/17/97  
Senate Finance Committee Substitute Adopted 7/31/97  
Fourth Edition Engrossed 8/12/97

Short Title: Various Local Tax Changes.

(Local)

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Sponsors:

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Referred to:

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March 6, 1997

A BILL TO BE ENTITLED

1 AN ACT TO AUTHORIZE SCOTLAND COUNTY AND THE CITY OF MOUNT  
2 AIRY TO LEVY A ROOM OCCUPANCY AND TOURISM DEVELOPMENT  
3 TAX, TO MODIFY THE DISTRIBUTION OF THE AVERY COUNTY  
4 OCCUPANCY TAX, TO REQUIRE PAYMENT OF DELINQUENT TAXES FOR  
5 THE TOWNS OF NEWLAND AND SPRUCE PINE AND FOR THE COUNTY OF  
6 ALLEGHANY BEFORE RECORDING DEEDS CONVEYING PROPERTY  
7 SUBJECT TO THE DELINQUENT TAXES, AND TO VALIDATE BUDGET  
8 PROCEDURES OF THE TOWN OF NORWOOD IN STANLY COUNTY.  
9

10 The General Assembly of North Carolina enacts:

11 Section 1. Mount Airy Occupancy Tax. (a) Authorization and scope. The Mount  
12 Airy Board of Commissioners may levy a room occupancy tax of up to three percent  
13 (3%) of the gross receipts derived from the rental of any room, lodging, or  
14 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the  
15 city that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax  
16 is in addition to any State or local sales tax. This tax does not apply to accommodations

1 furnished by nonprofit charitable, educational, or religious organizations or by nonprofit  
2 summer camps when the accommodations are furnished in furtherance of their nonprofit  
3 purpose.

4 (b) Administration. A tax levied under this section shall be levied, administered,  
5 collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S.  
6 160A-215 apply to a tax levied under this section.

7 (c) Distribution and use of tax revenue. The City of Mount Airy shall, on a  
8 quarterly basis, remit the net proceeds of the occupancy tax to the Mount Airy Tourism  
9 Development Authority. The Authority shall use the funds remitted to it under this  
10 subsection only to promote travel and tourism in the Mount Airy area. The following  
11 definitions apply in this section:

12 (1) Net proceeds. – Gross proceeds less the cost to the city of administering  
13 and collecting the tax, as determined by the finance officer, not to  
14 exceed seven percent (7%) of the gross proceeds.

15 (2) Promote travel and tourism. – Advertise and market activities, develop  
16 and distribute promotional materials, conduct market research, and  
17 engage in other similar promotional activities that attract tourists or  
18 business travelers to the area. The term also includes administration of  
19 the Mount Airy Tourism Development Authority.

20 Section 2. Mount Airy Tourism Development Authority. (a) Appointment and  
21 membership. When the board of commissioners adopts a resolution levying a room  
22 occupancy tax under this act, it shall also adopt a resolution creating a Mount Airy  
23 Tourism Development Authority, which shall be a public authority under the Local  
24 Government Budget and Fiscal Control Act. The board of commissioners shall appoint  
25 the following eight members to the Authority:

26 (1) Two individuals who are owners or operators of taxable tourist  
27 accommodations in the city.

28 (2) Two residents of the city who have experience in the promotion of  
29 travel and tourism.

30 (3) Two residents of the city who are members of the Mount Airy Chamber  
31 of Commerce, selected by the Mount Airy Chamber of Commerce.

32 (4) One member of the board of commissioners.

33 (5) The city finance officer, who shall serve as an ex officio, nonvoting  
34 member.

35 Members of the Authority shall serve without compensation and shall serve for  
36 a term of three years. Vacancies shall be filled in the same manner as the original  
37 appointment. Members appointed to fill vacancies shall serve for the remainder of the  
38 unexpired term. An individual may serve as a member for no more than two consecutive  
39 terms. The members shall elect a chair from among the membership, who shall serve for  
40 three years. The Authority shall meet at the call of the chair and shall adopt rules of  
41 procedure to govern its meetings.

42 (b) Duties. The Authority shall expend the net proceeds of the tax levied under  
43 this act for the purposes provided in Section 1 of this act. The Authority shall promote

1 travel and tourism in the Mount Airy area. In performing its duties, the Authority may  
2 contract with any person, firm, or agency to advise and assist it and may recommend to  
3 the board of commissioners that city staff be employed for this advice and assistance.  
4 Any city staff employed upon a recommendation of the Authority shall be hired and  
5 supervised by the Authority, which shall pay the salaries and expenses of this staff.

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

9 Section 3. Municipal Administrative Provisions. G.S. 160A-215, as enacted  
10 by ratified House Bill 859 and ratified Senate Bill 585, 1997 General Assembly, applies  
11 to the City of Mount Airy.

12 Section 4. Avery County Occupancy Tax. Section 1 of Chapter 472 of the  
13 1993 Session Laws reads as rewritten:

14 "Section 1. Avery County Occupancy tax.

15 (a) Authorization and Scope.

16 The Avery County Board of Commissioners may ~~by resolution, after not less than 10~~  
17 ~~days' public notice and after a public hearing held pursuant thereto,~~ levy a room occupancy tax  
18 of up to three percent (3%) of the gross receipts derived from the rental of any room,  
19 lodging, or accommodation furnished by a hotel, motel, inn, tourist camp, or similar place  
20 within the county that is subject to sales tax imposed by the State under G.S. 105-  
21 164.4(a)(3) and is not subject to a room occupancy tax levied by a municipality. This tax  
22 is in addition to any State or local sales tax. This tax does not apply to accommodations  
23 furnished by nonprofit charitable, educational, or religious organizations. The occupancy  
24 tax rate payable on accommodations furnished within Avery County may not exceed six  
25 percent (6%).

26 (b) ~~Collection.~~ Administration.

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

30 ~~Every operator of a business subject to the tax levied under this section shall, on and~~  
31 ~~after the effective date of the levy of the tax, collect the tax. This tax shall be collected as~~  
32 ~~part of the charge for furnishing a taxable accommodation. The tax shall be stated and~~  
33 ~~charged separately from the sales records, and shall be paid by the purchaser to the~~  
34 ~~operator of the business as trustee for and on account of the county. The tax shall be~~  
35 ~~added to the sales price and shall be passed on to the purchaser instead of being borne by~~  
36 ~~the operator of the business. The county shall design, print, and furnish to all appropriate~~  
37 ~~businesses and persons in the county the necessary forms for filing returns and~~  
38 ~~instructions to ensure the full collection of the tax. An operator of a business who~~  
39 ~~collects the occupancy tax levied under this section may deduct from the amount remitted~~  
40 ~~to the county a discount equal to the discount the State allows the operator for collecting~~  
41 ~~State sales and use taxes.~~

42 (c) ~~Administration.~~

1       ~~The county shall administer a tax levied under this section. A tax levied under this~~  
2 ~~section is due and payable to the county finance officer in monthly installments on or~~  
3 ~~before the 15th day of the month following the month in which the tax accrues. Every~~  
4 ~~person, firm, corporation, or association liable for the tax shall, on or before the 15th day~~  
5 ~~of each month, prepare and render a return on a form prescribed by the county. The~~  
6 ~~return shall state the total gross receipts derived in the preceding month from rentals upon~~  
7 ~~which the tax is levied.~~

8       ~~A return filed with the county finance officer under this section is not a public record~~  
9 ~~as defined by G.S. 132-1 and may not be disclosed except as required by law.~~

10       ~~(d) Penalties.~~

11       ~~A person, firm, corporation, or association who fails or refuses to file the return~~  
12 ~~required by this section is subject to the civil and criminal penalties set by G.S. 105-236~~  
13 ~~for failure to pay or file a return for State sales and use taxes. The board of~~  
14 ~~commissioners has the same authority to waive the penalties for a room occupancy tax~~  
15 ~~that the Secretary of Revenue has to waive the penalties for State sales and use taxes.~~

16       ~~(e) Distribution and Use of Tax Revenue.~~

17       ~~Avery County shall use at least shall, on a quarterly basis, distribute the net proceeds of~~  
18 ~~the occupancy tax as follows: two-thirds to the Avery Tourism Development Authority~~  
19 ~~created pursuant to Section 1.1 of this act and one-third to the Avery County Chamber of~~  
20 ~~Commerce. The Tourism Development Authority shall use at least one-half of the~~  
21 ~~proceeds distributed to it to promote travel and tourism and shall use the remainder for~~  
22 ~~tourism-related expenditures. The chamber of commerce shall use the proceeds~~  
23 ~~distributed to it only to promote travel and tourism. two-thirds of the net proceeds of the~~  
24 ~~occupancy tax revenue to promote travel and tourism in Avery County and shall spend the~~  
25 ~~remainder on tourism-related expenditures. The chamber of commerce shall comply with~~  
26 ~~the same requirements for reporting and for submitting an annual budget for approval by~~  
27 ~~the county commissioners as are established for the Avery Tourism Development~~  
28 ~~Authority in Section 1.1 of this act. The Tourism Development Authority and the~~  
29 ~~chamber of commerce may not spend any of the proceeds distributed to them under this~~  
30 ~~section except in accordance with a proposed budget and work plan approved by the~~  
31 ~~board of county commissioners as provided in Section 1.1 of this act.~~

32       The following definitions apply in this subsection:

- 33       (1) Net proceeds. – Gross proceeds less the cost to the county of  
34       administering and collecting the tax, as determined by the finance  
35       officer, not to exceed seven percent (7%) of the amount collected.
- 36       (2) Promote travel and tourism. – To advertise or market an area or activity,  
37       publish and distribute pamphlets and other materials, conduct market  
38       research, or engage in similar promotional activities that attract tourists  
39       or business travelers to the area; the term includes administrative  
40       expenses incurred in engaging in the listed activities.
- 41       (3) Tourism-related expenditures. – Expenditures that are designed to  
42       increase the use of lodging facilities in a county or to attract tourists or  
43       business travelers to the county ~~and expenditures incurred by the county in~~

1 collecting the tax county. The term includes expenditures to construct,  
2 maintain, operate, or market a convention center and other expenditures  
3 that, in the judgment of the ~~board of commissioners,~~ entity making the  
4 expenditure, will facilitate and support tourism.

5 (f) ~~Effective Date of Levy:~~

6 ~~A tax levied under this section shall become effective on the date specified in the~~  
7 ~~resolution levying the tax. That date must be the first day of a calendar month, however,~~  
8 ~~and may not be earlier than the first day of the second month after the date the resolution~~  
9 ~~is adopted.~~

10 (g) ~~Repeal:~~

11 ~~A tax levied under this section may be repealed by a resolution adopted by the Avery~~  
12 ~~County Board of Commissioners. Repeal of a tax levied under this section shall become~~  
13 ~~effective on the first day of a month and may not become effective until the end of the~~  
14 ~~fiscal year in which the repeal resolution was adopted. Repeal of a tax levied under this~~  
15 ~~section does not affect a liability for a tax that was attached before the effective date of~~  
16 ~~the repeal, nor does it affect a right to a refund of a tax that accrued before the effective~~  
17 ~~date of the repeal."~~

18 Section 5. Avery Tourism Development Authority. Chapter 472 of the 1993  
19 Session Laws is amended by adding a new section to read:

20 "Sec. 1.1. Avery Tourism Development Authority. (a) Appointment and  
21 membership. The board of commissioners of Avery County shall adopt a resolution  
22 creating a county Tourism Development Authority, which shall be a public authority  
23 under the Local Government Budget and Fiscal Control Act. The Authority shall have  
24 nine voting members appointed by the board of commissioners as follows:

- 25 (1) Four individuals selected by the Avery County Lodging Association.
- 26 (2) Two individuals selected by the Avery County Chamber of Commerce.
- 27 (3) One member of the Avery County Board of Commissioners, to serve ex  
28 officio.
- 29 (4) Two members of the public.

30 The resolution shall provide for four-year terms of office for the members other than the  
31 county commissioner, except that the initial terms of four members shall be set at three  
32 years to provide for staggered terms. The resolution shall also provide for the filling of  
33 vacancies on the Authority. The board of commissioners shall designate one member of  
34 the Authority as chair and shall determine the compensation, if any, to be paid to  
35 members of the Authority.

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

40 (b) Duties. The Authority shall expend the net proceeds of the tax levied under  
41 this act for the purposes provided in Section 1 of this act. The Authority shall promote  
42 travel and tourism in the county and make tourism-related expenditures, as defined in  
43 Section 1 of this act.

1 (c) Annual Budget. On or before October 1, 1997, and by May 1 of each year  
2 thereafter, the Authority shall submit for approval by the board of commissioners a  
3 proposed budget and work plan for expenditure of the estimated tax revenues for the  
4 ensuing fiscal period. If the proposed budget is not approved, the Authority shall submit  
5 a revised proposed budget for approval. The Authority may not spend any of the  
6 proceeds distributed to it under Section 1 of this act except in accordance with a proposed  
7 budget and work plan approved by the board of county commissioners.

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

11 Section 6. County Administrative Provisions. Section 3(b) of S.L. 1997-102,  
12 as amended by Section 2 of S.L. 1997-255, Section 2 of S.L. 1997-342, and Section 3 of  
13 ratified House Bill 859, 1997 General Assembly, is further amended by adding the phrase  
14 "Avery," in its proper alphabetical order and by deleting the phrase "and Randolph" and  
15 substituting the phrase "Randolph, and Scotland".

16 Section 7. Section 1 of Chapter 305 of the 1963 Session Laws is rewritten to  
17 read:

18 "Section 1. The Register of Deeds of Avery County shall not receive for recordation  
19 any deed unless the following conditions are met:

20 (1) The deed is accompanied by a certificate from the Avery County Tax  
21 Collector to the effect that all delinquent county taxes and all delinquent  
22 taxes for municipalities for which the county collects taxes have been  
23 paid with respect to the property described in the deed.

24 (2) If the property described in the deed is located in whole or in part in the  
25 Town of Newland, the deed is accompanied by a certificate from the tax  
26 collector for the town to the effect that all delinquent municipal taxes  
27 have been paid with respect to the property."

28 Section 8. Section 1 of Chapter 537 of the 1987 Session Laws is rewritten to  
29 read:

30 "Section 1. The Register of Deeds of Mitchell County shall not receive for  
31 recordation any deed unless the following conditions are met:

32 (1) The deed is accompanied by a certificate from the Mitchell County Tax  
33 Collector to the effect that all delinquent county taxes and all delinquent  
34 taxes for municipalities for which the county collects taxes have been  
35 paid with respect to the property described in the deed.

36 (2) If the property described in the deed is located in whole or in part in the  
37 Town of Spruce Pine, the deed is accompanied by a certificate from the  
38 tax collector for the town to the effect that all delinquent municipal  
39 taxes have been paid with respect to the property."

40 Section 9. Section 1 of Chapter 657 of the 1993 Session Laws reads as  
41 rewritten:

42 "Section 1. The ~~Register~~ Registers of Deeds of ~~Ashe County~~ Alleghany and Ashe  
43 Counties shall not receive for recordation any deed unless the deed is accompanied by a

1 certificate from the ~~Ashe~~ County Tax Collector to the effect that all delinquent taxes upon  
2 the property described in the deed offered for recordation have been paid."

3 Section 10. For the 1986-87 through 1996-97 fiscal years, the Town of  
4 Norwood, through the budgetary procedures it adopted and followed, is deemed to have  
5 adopted a budget ordinance and to have complied with all the requirements of the Local  
6 Government Budget and Fiscal Control Act, Article 3 of Chapter 159 of the General  
7 Statutes. Taxes levied and collected by the Town of Norwood for those fiscal years are  
8 in all respects validated and confirmed. Appropriations and expenditures by the Town of  
9 Norwood for those fiscal years are in all respects validated and confirmed.

10 Section 11. Scotland County occupancy tax. (a) Authorization and scope. The  
11 Scotland County Board of Commissioners may levy a room occupancy tax of up to three  
12 percent (3%) of the gross receipts derived from the rental of any room, lodging, or  
13 accommodation furnished by a hotel, motel, inn, tourist camp, or similar place within the  
14 county that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This  
15 tax is in addition to any State or local sales tax. This tax does not apply to  
16 accommodations furnished by nonprofit charitable, educational, or religious  
17 organizations when furnished in furtherance of their nonprofit purpose.

18 (b) Administration. A tax levied under this section shall be levied, administered,  
19 collected, and repealed as provided in G.S. 153A-155. The penalties provided in G.S.  
20 153A-155 apply to a tax levied under this section.

21 (c) Distribution and use of tax revenue. Scotland County shall, on a quarterly  
22 basis, remit the net proceeds of the occupancy tax to the Scotland Tourism Development  
23 Authority. The Authority shall use at least two-thirds of the funds remitted to it under  
24 this subsection to promote travel and tourism in Scotland County and shall use the  
25 remainder for tourism-related expenditures.

26 The following definitions apply in this subsection:

27 (1) Net proceeds. – Gross proceeds less the cost to the county of  
28 administering and collecting the tax, as determined by the finance  
29 officer, not to exceed three percent (3%) of the first five hundred  
30 thousand dollars (\$500,000) of gross proceeds collected each year and  
31 one percent (1%) of the remaining gross receipts collected each year.

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

37 (3) Tourism-related expenditures. – Expenditures that, in the judgment of  
38 the Authority, are designed to increase the use of lodging facilities,  
39 meeting facilities, and convention facilities in a county by attracting  
40 tourists or business travelers to the county. The term includes tourism-  
41 related capital expenditures.

42 Section 12. Scotland Tourism Development Authority. (a) Appointment and  
43 membership. When the Scotland County Board of Commissioners adopts a resolution

1 levying a room occupancy tax under this act, it shall also adopt a resolution creating a  
2 county Tourism Development Authority, which shall be a public authority under the  
3 Local Government Budget and Fiscal Control Act. The resolution shall provide for the  
4 members' qualifications and terms of office, and for the filling of vacancies on the  
5 Authority. The Authority shall be composed of seven members, five of whom must be  
6 currently active in the promotion of travel and tourism in the county and two of whom  
7 must be owners or operators of hotels, motels, or other taxable accommodations in the  
8 county. The board of commissioners shall designate one member of the Authority as  
9 chair and shall determine the compensation, if any, to be paid to members of the  
10 Authority.

11 The Authority shall meet at the call of the chair and shall adopt rules of  
12 procedure to govern its meetings. The Finance Officer for Scotland County shall be the  
13 ex officio finance officer of the Authority.

14 (b) Duties. The Authority shall expend the net proceeds of the tax levied under  
15 Section 11 of this act for the purposes provided in Section 11 of this act. The Authority  
16 shall promote travel and tourism and make tourism-related expenditures.

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

20 Section 13. Sections 4, 5, and 6 of this act become effective September 1,  
21 1997, and apply to taxes paid on or after that date. Sections 7, 8, and 9 of this act become  
22 effective October 1, 1997, and apply to deeds recorded on or after that date. The  
23 remainder of this act is effective when it becomes law.