

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2003**

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**HOUSE BILL 96**

Short Title: Avery County Occupancy Tax.

(Local)

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Sponsors: Representative Frye.

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Referred to: Finance.

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February 26, 2003

A BILL TO BE ENTITLED

1  
2 AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX  
3 IN A TAX DISTRICT COMPRISING THE UNINCORPORATED AREAS OF  
4 THE COUNTY.

5 The General Assembly of North Carolina enacts:

6 **SECTION 1.** Avery County District U Created. – Avery County District U  
7 is created as a taxing district. Its jurisdiction consists of that part of Avery County that  
8 is located outside of incorporated areas within the county. Avery County District U is a  
9 body politic and corporate and has the power to carry out the provisions of this act. The  
10 Avery County Board of Commissioners shall serve ex officio as the governing body of  
11 the district, and the officers of the county shall serve as the officers of the governing  
12 body of the district. A simple majority of the governing body constitutes a quorum, and  
13 approval by a majority of those present is sufficient to determine any matter before the  
14 governing body, if a quorum is present.

15 **SECTION 2.** Authorization and Scope. – The governing body of Avery  
16 County District U may levy a room occupancy tax of up to six percent (6%) of the gross  
17 receipts derived from the rental of any room, lodging, or accommodation furnished by a  
18 hotel, motel, inn, tourist camp, or similar place within the district that is subject to sales  
19 tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State  
20 or local sales or room occupancy tax. This tax does not apply to accommodations  
21 furnished by charitable, educational, or religious institutions or nonprofit organizations  
22 when furnished in furtherance of their nonprofit purpose.

23 **SECTION 3.** Administration. – A tax levied under this act shall be levied,  
24 administered, collected, and repealed as provided in G.S. 153A-155 as if Avery County  
25 District U were a county. The penalties provided in G.S. 153A-155 apply to a tax  
26 levied under this act.

27 **SECTION 4.** Distribution and Use of Tax Revenue. – Avery County District  
28 U shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the  
29 Avery County District U Tourism Development Authority created pursuant to Section 5

1 of this act. The Authority shall use at least two-thirds of the proceeds distributed to it to  
2 promote travel and tourism in the district and shall use the remainder for tourism-related  
3 expenditures in the district. In accordance with the North Carolina Constitution and the  
4 United States Constitution, the tax proceeds may be used only for the direct benefit of  
5 the jurisdiction of Avery County District U. None of the proceeds may be used to  
6 promote travel or tourism in areas within Avery County that are outside of the district or  
7 for tourism-related expenditures in the county that are outside of the district.

8 The following definitions apply in this act:

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

25 **SECTION 5.(a)** Avery County District U Tourism Development Authority. –  
26 Appointment and membership. – The board of commissioners of Avery County shall  
27 adopt a resolution creating the Avery County District U Tourism Development  
28 Authority, which shall be a public authority under the Local Government Budget and  
29 Fiscal Control Act. The resolution shall provide for the membership of the Authority,  
30 including the members' terms of office, and for the filling of vacancies on the Authority.  
31 At least one-third of the members must be individuals who are affiliated with businesses  
32 that collect the tax in the district, and at least three-fourths of the members must be  
33 individuals who are currently active in the promotion of travel and tourism in the  
34 district. The board of commissioners shall designate one member of the Authority as  
35 chair and shall determine the compensation, if any, to be paid to members of the  
36 Authority.

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

40 **SECTION 5.(b)** Duties. – The Authority shall expend the net proceeds of  
41 the tax levied under this act for the purposes provided in Section 4 of this act. The  
42 Authority shall promote travel and tourism in the district and make tourism-related  
43 expenditures in the district.

1           **SECTION 5.(c)** Reports. – The Authority shall report quarterly and at the  
2 close of the fiscal year to the Avery County Board of Commissioners on its receipts and  
3 expenditures for the preceding quarter and for the year in such detail as the board may  
4 require.

5           **SECTION 6.** G.S. 153A-155(g) reads as rewritten:

6           "(g) This section applies only to Anson, Brunswick, Buncombe, Cabarrus,  
7 Carteret, Craven, Cumberland, Currituck, Dare, Davie, Durham, Granville, Madison,  
8 Montgomery, Nash, New Hanover, Pender, Person, Randolph, Richmond, Rowan,  
9 Scotland, Stanly, Transylvania, Tyrrell, Vance, and Washington Counties, to Avery  
10 County District U, and to the Township of Averagesboro in Harnett County."

11           **SECTION 7.** This act is effective when it becomes law.