

**GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2023**

S

2

**SENATE BILL 154  
Finance Committee Substitute Adopted 6/20/23**

Short Title: Avery/Union/Stallings/Indian Trail OT Chngs.

(Local)

Sponsors:

Referred to:

February 27, 2023

A BILL TO BE ENTITLED  
AN ACT TO AUTHORIZE AVERY COUNTY TO LEVY AN OCCUPANCY TAX IN A TAX  
DISTRICT COMPRISING THE UNINCORPORATED AREAS OF THE COUNTY AND  
TO AUTHORIZE THE TOWN OF INDIAN TRAIL, A PORTION OF THE TOWN OF  
STALLINGS, AND UNION COUNTY TO EACH LEVY AN OCCUPANCY TAX, IF  
APPROVED IN A REFERENDUM.

The General Assembly of North Carolina enacts:

**PART I. AVERY COUNTY OCCUPANCY TAX**

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

**SECTION 1.(b)** Authorization and Scope. – The governing body of Avery County District A may levy a room occupancy tax of up to six percent (6%) of the gross receipts derived from the rental of an accommodation within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales or room occupancy tax.

**SECTION 1.(c)** Administration. – A tax levied under this section shall be levied, administered, collected, and repealed as provided in G.S. 153A-155 as if Avery County District A were a county. The penalties provided in G.S. 153A-155 apply to a tax levied under this section.

**SECTION 1.(d)** Distribution and Use of Tax Revenue. – Avery County District A shall, on a quarterly basis, distribute the net proceeds of the occupancy tax to the Avery County District A Tourism Development Authority created pursuant to this act. The Authority shall use at least two-thirds of the proceeds distributed to it to promote travel and tourism in the district and shall use the remainder for tourism-related expenditures in the district. In accordance with the North Carolina Constitution and the United States Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of Avery County District A. None of the proceeds may be used to promote travel or tourism in areas within Avery County that are outside of the district or for tourism-related expenditures in the county that are outside of the district.

The following definitions apply in this subsection:



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

**SECTION 2.(a)** Avery County District A Tourism Development Authority. – Appointment and Membership. – When the governing body of Avery County District A adopts a resolution levying a room occupancy tax under this act, it shall also adopt a resolution creating the Avery County District A Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members must be individuals who are affiliated with businesses that collect the tax in the district, and at least one-half of the members must be individuals who are currently active in the promotion of travel and tourism in the district. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

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

**SECTION 2.(b)** Duties. – The Authority shall expend the net proceeds of the tax levied under this act for promoting travel and tourism in the district and for tourism-related expenditures in the district as provided in this act.

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

## **PART II. INDIAN TRAIL OCCUPANCY TAX**

**SECTION 3.** Occupancy tax. – (a) Authorization and Scope. – If the majority of those voting in a referendum held pursuant to subsection (b) of this section vote for the levy of the tax, the Town Council of the Town of Indian Trail may levy a room occupancy tax of up to five percent (5%) of the gross receipts derived from the rental of an accommodation within the town that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

**SECTION 3.(b)** Referendum. – Notwithstanding G.S. 160A-215(b), a room occupancy tax authorized under subsection (a) of this section may be levied only if all of the following conditions are met:

- (1) The Town Council of the Town of Indian Trail directs the county board of elections to conduct an advisory referendum on the question of whether to levy the room occupancy tax.

- (2) The election is held in accordance with the procedures of G.S. 163-287, and the form of the question to be presented on the ballot concerning the room occupancy tax is as follows:

"[ ] FOR [ ] AGAINST

The levy of a room occupancy tax in the amount of up to five percent (5%) of the gross receipts derived from the rental of an accommodation located within the town."

- (3) A majority of those voting in the referendum vote for the levy of the room occupancy tax.

- (4) The Town Council of the Town of Indian Trail adopts a resolution levying the room occupancy tax after providing not less than 10 days' public notice of the levy. A room occupancy tax shall become effective on the date specified in the resolution levying the tax, which must be the first day of a calendar month and may not be earlier than the first day of the second month after the date the resolution is adopted.

**SECTION 3.(c) Rate Increase.** – The Town Council of the Town of Indian Trail may, by resolution and after not less than 10 days' public notice and a public hearing, increase the rate of the tax to a rate not in excess of that approved in an election held pursuant to subsection (b) of this section. A rate increase shall become effective on the date specified in the resolution levying the increase, which must be the first day of a calendar month and may not be earlier than the first day of the second month after the date the resolution is adopted.

**SECTION 3.(d) Administration.** – A tax levied under this section shall be administered, collected, and repealed as provided in G.S. 160A-215. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

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

The following definitions apply in this section:

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

**SECTION 4. Tourism Development Authority.** – (a) Appointment and Membership. – When the Town Council adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating the Indian Trail Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall

be individuals who are affiliated with businesses that collect the tax in the town, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the town. The Town Council shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for the Town of Indian Trail shall be the ex officio finance officer of the Authority.

**SECTION 4.(b) Duties.** – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 3 of this Part. The Authority shall promote travel, tourism, and conventions in the town; sponsor tourist-related events and activities in the town; and finance tourist-related capital projects in the town.

**SECTION 4.(c) Reports.** – The Authority shall report quarterly and at the close of the fiscal year to the Indian Trail Town Council on its receipts and expenditures for the preceding quarter and for the year in such detail as the Town Council may require.

### **PART III. STALLINGS OCCUPANCY TAX**

**SECTION 5. Stallings District S Created.** – Stallings District S is created as a taxing district. Its jurisdiction consists of only that part of the Town of Stallings that is located within Union County. Stallings District S is a body politic and corporate and has the power to carry out the provisions of this Part. The Stallings Town Council shall serve ex officio as the governing body of the district, and the officers of the town shall serve as the officers of the governing body of the district. A simple majority of the governing body constitutes a quorum, and approval by a majority of those present is sufficient to determine any matter before the governing body, if a quorum is present.

**SECTION 6. Occupancy tax.** – (a) Authorization and Scope. – If the majority of those voting in a referendum held pursuant to subsection (b) of this section vote for the levy of the tax, the governing body of Stallings District S may levy a room occupancy tax of up to five percent (5%) of the gross receipts derived from the rental of an accommodation within the district that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition to any State or local sales tax.

**SECTION 6.(b) Referendum.** – Notwithstanding G.S. 160A-215(b), a room occupancy tax authorized under subsection (a) of this section may be levied only if all of the following conditions are met:

- (1) The governing body of Stallings District S directs the county board of elections to conduct an advisory referendum on the question of whether to levy the room occupancy tax.
- (2) The election is held in accordance with the procedures of G.S. 163-287, and the form of the question to be presented on the ballot concerning the room occupancy tax is as follows:

"[ ] FOR [ ] AGAINST

The levy of a room occupancy tax in the amount of up to five percent (5%) of the gross receipts derived from the rental of an accommodation located within the part of the Town of Stallings that is in Union County."

- (3) A majority of those voting in the referendum vote for the levy of the room occupancy tax.
- (4) The governing body of Stallings District S adopts a resolution levying the room occupancy tax after providing not less than 10 days' public notice of the levy. A room occupancy tax shall become effective on the date specified in the resolution levying the tax, which must be the first day of a calendar month and may not be earlier than the first day of the second month after the date the resolution is adopted.

1           **SECTION 6.(c)** Rate Increase. – The governing body of Stallings District S may, by  
2 resolution and after not less than 10 days' public notice and a public hearing, increase the rate of  
3 the tax to a rate not in excess of that approved in an election held pursuant to subsection (b) of  
4 this section. A rate increase shall become effective on the date specified in the resolution levying  
5 the increase, which must be the first day of a calendar month and may not be earlier than the first  
6 day of the second month after the date the resolution is adopted.

7           **SECTION 6.(d)** Administration. – A tax levied under this section shall be  
8 administered, collected, and repealed as provided in G.S. 160A-215 as if Stallings District S were  
9 a city. The penalties provided in G.S. 160A-215 apply to a tax levied under this section.

10           **SECTION 6.(e)** Distribution and Use of Tax Revenue. – Stallings District S shall,  
11 on a quarterly basis, remit the net proceeds of the occupancy tax to the Stallings District S  
12 Tourism Development Authority. The Authority shall use at least two-thirds of the proceeds  
13 remitted to it to promote travel and tourism and shall use the remainder for tourism-related  
14 expenditures. In accordance with the North Carolina Constitution and the United States  
15 Constitution, the tax proceeds may be used only for the direct benefit of the jurisdiction of  
16 Stallings District S. None of the proceeds may be used to promote travel or tourism or for  
17 tourism-related expenditures in areas within the Town of Stallings that are outside of the district.

18           The following definitions apply in this section:

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

34           **SECTION 7.** Stallings District S Tourism Development Authority. – (a)  
35 Appointment and Membership. – When the governing body of the district adopts a resolution  
36 levying a room occupancy tax under this Part, it shall also adopt a resolution creating the Stallings  
37 District S Tourism Development Authority, which shall be a public authority under the Local  
38 Government Budget and Fiscal Control Act. The resolution shall provide for the membership of  
39 the Authority, including the members' terms of office, and for the filling of vacancies on the  
40 Authority. At least one-third of the members must be individuals affiliated with businesses that  
41 collect the tax in the district, and at least one-half of the members must be individuals currently  
42 active in the promotion of travel and tourism in the district. The governing body of the district  
43 shall designate one member of the Authority as chair and shall determine the compensation, if  
44 any, to be paid to members of the Authority.

45           The Authority shall meet at the call of the chair and shall adopt rules of procedure to  
46 govern its meetings. The finance officer for the governing body of the district shall be the ex  
47 officio finance officer of the Authority.

48           **SECTION 7.(b)** Duties. – The Authority shall expend the net proceeds of the tax  
49 levied under this Part for the purposes provided in Section 6 of this Part. The Authority shall  
50 promote travel, tourism, and conventions in the district; sponsor tourist-related events and  
51 activities in the district; and finance tourist-related capital projects in the district.

1           **SECTION 7.(c)** Reports. – The Authority shall report quarterly and at the close of  
2 the fiscal year to the governing body of the district on its receipts and expenditures for the  
3 preceding quarter and for the year in such detail as the governing body of the district may require.  
4

5 **PART IV. UNION COUNTY OCCUPANCY TAX**

6           **SECTION 8.** Occupancy tax. – (a) Authorization and Scope. – If the majority of  
7 those voting in a referendum held pursuant to subsection (b) of this section vote for the levy of  
8 the tax, the Union County Board of Commissioners may levy a room occupancy tax of one  
9 percent (1%) of the gross receipts derived from the rental of an accommodation within the county  
10 that is subject to sales tax imposed by the State under G.S. 105-164.4(a)(3). This tax is in addition  
11 to any State or local sales tax.

12           **SECTION 8.(b)** Referendum. – Notwithstanding G.S. 153A-155(b), a room  
13 occupancy tax authorized under subsection (a) of this section may be levied only if all of the  
14 following conditions are met:

15           (1) The Union County Board of Commissioners directs the county board of  
16 elections to conduct an advisory referendum on the question of whether to  
17 levy the room occupancy tax.

18           (2) The election is held in accordance with the procedures of G.S. 163-287, and  
19 the form of the question to be presented on the ballot concerning the room  
20 occupancy tax is as follows:

21                               "☐ FOR       ☐ AGAINST

22                               The levy of a room occupancy tax in the amount of one percent (1%) of the  
23 gross receipts derived from the rental of an accommodation located within the  
24 county."

25           (3) A majority of those voting in the referendum vote for the levy of the room  
26 occupancy tax.

27           (4) The Union County Board of Commissioners adopts a resolution levying the  
28 room occupancy tax after providing not less than 10 days' public notice of the  
29 levy. A room occupancy tax shall become effective on the date specified in  
30 the resolution levying the tax, which must be the first day of a calendar month  
31 and may not be earlier than the first day of the second month after the date the  
32 resolution is adopted.

33           **SECTION 8.(c)** Administration. – A tax levied under this section shall be  
34 administered, collected, and repealed as provided in G.S. 153A-155. The penalties provided in  
35 G.S. 153A-155 apply to a tax levied under this section.

36           **SECTION 8.(d)** Distribution and Use of Tax Revenue. – Union County shall, on a  
37 quarterly basis, remit the net proceeds of the occupancy tax to the Union County Tourism  
38 Development Authority. The Authority shall use at least two-thirds of the funds remitted to it  
39 under this subsection to promote travel and tourism and shall use the remainder for  
40 tourism-related expenditures in the county.

41           The following definitions apply in this section:

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

47           (2) Promote travel and tourism. – To advertise or market an area or activity,  
48 publish and distribute pamphlets and other materials, conduct market research,  
49 or engage in similar promotional activities that attract tourists or business  
50 travelers to the area. The term includes administrative expenses incurred in  
51 engaging in the listed activities.

- (3) Tourism-related expenditures. – Expenditures that, in the judgment of the Union County Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, or convention facilities in the county or to attract tourists or business travelers to the county. The term includes tourism-related capital expenditures.

**SECTION 9.** Tourism Development Authority. – (a) Appointment and Membership. – When the Union County Board of Commissioners adopts a resolution levying a room occupancy tax under this Part, it shall also adopt a resolution creating the Union County Tourism Development Authority, which shall be a public authority under the Local Government Budget and Fiscal Control Act. The resolution shall provide for the membership of the Authority, including the members' terms of office, and for the filling of vacancies on the Authority. At least one-third of the members shall be individuals who are affiliated with businesses that collect the tax in the county, and at least one-half of the members shall be individuals who are currently active in the promotion of travel and tourism in the county. The board of commissioners shall designate one member of the Authority as chair and shall determine the compensation, if any, to be paid to members of the Authority.

The Authority shall meet at the call of the chair and shall adopt rules of procedure to govern its meetings. The finance officer for Union County shall be the ex officio finance officer of the Authority.

**SECTION 9.(b)** Duties. – The Authority shall expend the net proceeds of the tax levied under this Part for the purposes provided in Section 8 of this Part. The Authority shall promote travel, tourism, and conventions in the county; sponsor tourist-related events and activities in the county; and finance tourist-related capital projects in the county.

**SECTION 9.(c)** Reports. – The Authority shall report quarterly and at the close of the fiscal year to the Union County Board of Commissioners on its receipts and expenditures for the preceding quarter and for the year in such detail as the board may require.

## **PART V. APPLICABILITY AND EFFECTIVE DATE**

**SECTION 10.** G.S. 153A-155(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all counties and county districts that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Alleghany, Anson, Brunswick, Buncombe, Burke, Cabarrus, Camden, Carteret, Caswell, Chatham, Cherokee, Chowan, Clay, Craven, Cumberland, Currituck, Dare, Davie, Duplin, Durham, Edgecombe, Forsyth, Franklin, Graham, Granville, Halifax, Haywood, Henderson, Jackson, Madison, Martin, McDowell, Mitchell, Montgomery, Moore, Nash, New Hanover, Northampton, Pasquotank, Pender, Perquimans, Person, Randolph, Richmond, Rockingham, Rowan, Rutherford, Sampson, Scotland, Stanly, Swain, Transylvania, Tyrrell, Union, Vance, Washington, Wayne, and Wilson Counties, to Avery County District A, Harnett County District H, New Hanover County District U, Surry County District S, Watauga County District U, Wilkes County District K, Yadkin County District Y, and the Township of Averagesboro in Harnett County and the Ocracoke Township Taxing District."

**SECTION 11.** G.S. 160A-215(g) reads as rewritten:

"(g) Applicability. – Subsection (c) of this section applies to all cities that levy an occupancy tax. To the extent subsection (c) conflicts with any provision of a local act, subsection (c) supersedes that provision. The remainder of this section applies only to Beech Mountain District W, to the Cities of Belmont, Conover, Eden, Elizabeth City, Gastonia, Goldsboro, Greensboro, Hickory, High Point, Indian Trail, Jacksonville, Kings Mountain, Lake Santeetlah, Lenoir, Lexington, Lincolnton, Lowell, Lumberton, Monroe, Mount Airy, Mount Holly, Reidsville, Roanoke Rapids, Salisbury, Sanford, Shelby, Statesville, Washington, and Wilmington, to the Towns of Ahoskie, Beech Mountain, Benson, Bermuda Run, Blowing Rock,

1 Boiling Springs, Boone, Burgaw, Carolina Beach, Carrboro, Cooleemee, Cramerton, Dallas,  
2 Dobson, Elkin, Fontana Dam, Franklin, Grover, Hillsborough, Jonesville, Kenly, Kure Beach,  
3 Leland, McAdenville, Mocksville, Mooresville, Murfreesboro, North Topsail Beach, Pembroke,  
4 Pilot Mountain, Ranlo, Robbinsville, Selma, Smithfield, St. Pauls, Swansboro, Troutman, Tryon,  
5 West Jefferson, Wilkesboro, Wrightsville Beach, Yadkinville, Yanceyville, to the municipalities  
6 in Avery and Brunswick Counties, ~~and to Saluda District D-D, and to Stallings District S.~~"

7 **SECTION 12.** This act is effective when it becomes law.