HOUSE GUIDELINES FOR OCCUPANCY TAX LEGISLATION

Background – Since 1983, the General Assembly has authorized many units of local government to levy a room occupancy tax. At that time, the use of the tax proceeds, the administration of the tax, and the body with the authority to expend the proceeds varied considerably.

In the mid-1990s, there was an effort to make occupancy taxes more uniform and to ensure that proceeds were used primarily for tourism. In 1993, the House Finance Committee adopted the Occupancy Tax Guidelines, which contain many of the same principles espoused by the North Carolina Travel and Tourism Coalition (NCTTC) in its policy statement for legislation authorizing local occupancy taxes. In 1997, the General Assembly enacted administrative provisions for occupancy tax legislation, which provide uniformity in the areas of levy, administration, collection, repeal, and penalties (G.S. 153A-155 and G.S. 160A-215).

Consistent with these objectives, the House Finance Committee established the Occupancy Tax Subcommittee in the late 1990s to regularly review occupancy tax legislation and to look for adherence to the following provisions in the bills it considers:

Rate – The county tax rate cannot exceed 6% and the city tax rate, when combined with the county rate, cannot exceed 6%.

Use – At least two-thirds of the proceeds must be used to promote travel and tourism and the remainder must be used for tourism-related expenditures, which may include beach nourishment. However, local governments in coastal counties may allocate up to 50% of occupancy tax proceeds for beach nourishment, so long as all remaining proceeds are used for tourism promotion and provided that the use of occupancy tax proceeds for beach nourishment is limited by either a statutory cap or sunset provision.

Definitions – The terms "net proceeds", "promote travel and tourism", "tourism-related expenditures", and "beach nourishment" are defined terms:

- **Net proceeds** – Gross proceeds less the costs to the city/county of administering and collecting the tax, as determined by the finance officer, not to exceed 3% of the first $500,000 of gross proceeds collected each year and 1% of the remaining gross receipts collected each year.
- **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 these activities.

- **Tourism-related expenditures** – Expenditures that, in the judgment of the Tourism Development Authority, are designed to increase the use of lodging facilities, meeting facilities, and convention facilities in a city/county by attracting tourists or business travelers to the city/county. The term includes tourism-related capital expenditures.

- **Beach Nourishment** – The placement of sand, from other sand sources, on a beach or dune by mechanical means and other associated activities that are in conformity with the North Carolina Coastal Management Program along the North Carolina shorelines and connecting inlets for the purpose of widening the beach to benefit public recreational use and mitigating damage and erosion from storms to inland property. The term includes expenditures for the following:

  a. Costs directly associated with qualifying for projects either contracted through the U.S. Army Corps of Engineers or otherwise permitted by all appropriate federal and State agencies;
  b. The nonfederal share of the cost required to construct these projects;
  c. The costs associated with providing enhanced public beach access; and
  d. The costs of associated nonhardening activities such as the planting of vegetation, the building of dunes, and the placement of sand fences.

Administration – The net revenues must be administered by a local tourism promotion agency, typically referred to as a "Tourism Development Authority," that has the authority to determine how the tax proceeds will be used, is created by a local ordinance, and at least ½ of the members must be currently active in the promotion of travel and tourism in the taxing district and ⅓ of the members must be affiliated with organizations that collect the tax.

Costs of Collection – The taxing authority may retain from the revenues its actual costs of collection, not to exceed 3% of the first $500,000 collected each year plus 1% of the remainder collected each year.

Conformity with Other Local Occupancy Taxes – In 2008, the NCTTC formally revised its policy position with regard to occupancy taxes to include a statement that if a city seeks to impose a new occupancy tax or increase its existing tax on lodging facilities in a county that also has an existing occupancy tax, the county occupancy tax must conform to the guidelines in order for the Coalition to support the proposed municipal tax. During the 2009 Regular Session, the House Finance Chairs considered the revised policy statement of the NCTTC but declined to amend the House Finance Committee's Guidelines for Occupancy Tax accordingly.