

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1995

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SENATE BILL 606
Second Edition Engrossed 5/2/95

Short Title: Centennial Authority.

(Public)

Sponsors: Senator Sherron.

Referred to: Finance

April 6, 1995

1 A BILL TO BE ENTITLED
2 AN ACT TO PROVIDE FOR THE CREATION OF FACILITY AUTHORITIES AND
3 TO ESTABLISH THE CENTENNIAL AUTHORITY.

4 The General Assembly of North Carolina enacts:

5 Section 1. Article 20 of Chapter 160A of the General Statutes is amended by
6 adding a new Part to read:

7 **"PART 4. FACILITY AUTHORITIES.**

8 **"§ 160A-480.1. Short title.**

9 This Part is the 'Facility Authority Act' and may be cited by that name.

10 **"§ 160A-480.2. Definitions.**

11 The following definitions apply in this Part:

12 (1) Authority. – A Facility Authority.

13 (2) Credit facility. – An agreement with a banking institution, an insurance
14 institution, an investment institution, or other financial institution
15 located inside or outside the United States of America that provides for
16 prompt payment, whether at maturity, presentment, or tender for
17 purchase, redemption, or acceleration, of part or all of the principal or
18 purchase price, redemption premium, if any, and interest on a bond or
19 note issued by the Authority and for repayment of the institution.

- 1 (3) Member. – A person appointed to a facility authority.
- 2 (4) Par formula. – A provision or formula to make periodic adjustments in
- 3 the interest rate of a bond or note, including:
- 4 a. A provision for an adjustment to keep the purchase price of the
- 5 bond or note in the open market as close to par as possible.
- 6 b. A provision for an adjustment based on one or more percentages
- 7 of a prime rate or base rate that may vary or apply for specified
- 8 periods of time.
- 9 c. Any other provision that does not materially and adversely affect
- 10 the financial position of the Authority and the marketing of the
- 11 bonds or notes at a reasonable interest cost to the Authority.
- 12 (5) Regional facility. – A facility consisting of an arena or other buildings
- 13 or both, or areas where sports, fitness, health, recreational,
- 14 entertainment, or cultural activities can be conducted. The facility may
- 15 be composed of buildings grouped into complexes or separated from
- 16 each other and may include ancillary support facilities, such as those for
- 17 administration, sports science, sports medicine, training, museums,
- 18 meeting rooms and conference centers, accommodations, and food
- 19 services. The facility must be designed to attract to the State as many
- 20 major regional, national, and international tournaments, events,
- 21 championships, training centers, training camps, and headquarters for
- 22 the governance of various sports, associations, and events as possible.
- 23 (6) Special facility. – A conference center, exhibition center, international
- 24 trade center, performing arts center, coliseum, auditorium, museum, or
- 25 other similar facilities.

26 **"§ 160A-480.3. Creation of Authority; additional membership.**

27 (a) Creation. – An authority may be created only by act of the General Assembly.

28 An authority so created shall be a political subdivision of the State. The territorial

29 jurisdiction of the authority shall be a county authorized by the General Assembly to levy

30 a room occupancy tax and a prepared food and beverage tax, and where both those taxes

31 have been levied.

32 (b) Membership. – An authority shall have eight members. Eight members shall

33 be chosen for four-year terms as follows:

34 (1) Four shall be appointed by the General Assembly upon the

35 recommendation of the Speaker of the House of Representatives in

36 accordance with G.S. 120-121; and

37 (2) Four shall be appointed by the General Assembly upon the

38 recommendation of the President Pro Tempore of the Senate in

39 accordance with G.S. 120-121.

40 Two of the initial appointments under subdivision (1) of this subsection and two

41 of the initial appointments under subdivision (2) of this subsection shall be for terms

42 expiring July 1, 1997. The remaining initial appointments shall be for terms expiring

43 July 1, 1999. Successors shall be appointed by the same procedure for four-year terms.

1 Vacancies occurring in the membership of the authority shall be filled by the remaining
2 members.

3 (c) The purpose of an authority is to study, design, plan, construct, own, promote,
4 finance, and operate regional facilities and special facilities.

5 (d) Charter and bylaws. – The act creating an authority and any amendments to it
6 is the Authority's charter. The charter of an authority shall include the name of the
7 Authority. An authority may adopt bylaws which may do any one or more of the
8 following:

9 (1) Limit the powers, duties, and functions that the Authority may exercise
10 and perform.

11 (2) Prescribe the compensation and allowances, if any, to be paid to the
12 members of the Authority.

13 (3) Contain rules for the conduct of Authority business and any other matter
14 pertaining to the organization, powers, and functioning of the Authority
15 that the members consider appropriate.

16 (e) Meetings. – An authority shall meet at a time and place agreed upon by its
17 members. The initial meeting may be called by any four members. At its first meeting,
18 the members shall elect a chairperson and any other officers that the charter may specify
19 or the members may consider advisable. The Authority shall then adopt bylaws for the
20 conduct of its business.

21 (f) Fiscal Accountability. – An authority is a public authority subject to the
22 provisions of Article 3 of Chapter 159 of the General Statutes.

23 (g) Conflicts. – If any member, officer, or employee of an Authority shall be:

24 (1) Interested either directly or indirectly; or

25 (2) An officer or employee of or have an ownership interest in any firm or
26 corporation, not including units of local government, interested directly
27 or indirectly,

28 in any contract with that Authority, the interest shall be disclosed to the Authority and
29 shall be set forth in the minutes of the Authority. The member, officer, or employee
30 having an interest shall not participate on behalf of the Authority in the authorization of
31 such contract. Other provisions of law notwithstanding, failure to take any or all actions
32 necessary to carry out the purposes of this subsection do not affect the validity of any
33 bonds or notes issued under this Chapter.

34 **"§ 160A-480.4. Powers of an Authority.**

35 An Authority shall have all of the powers necessary or convenient to carry out and
36 effectuate the purposes and provisions of this Part. These powers may include any one or
37 more of the following:

38 (1) To apply for, accept, receive, and dispense funds and grants made
39 available to it by the State or any of its agencies or political
40 subdivisions, the United States, any member unit, or any private entity.

41 (2) To study, design, plan, construct, own, and operate regional facilities or
42 special facilities.

- 1 (3) To employ consultants and employees as may be required in the
2 judgment of the Authority, to fix and pay their compensation from funds
3 available to the Authority. In employing consultants, the Authority
4 shall promote participation by minority businesses.
- 5 (4) To contract with any public or private entity.
- 6 (5) To adopt bylaws for the regulation of its affairs and the conduct of its
7 business, and to adopt rules in connection with the performance of its
8 functions and duties.
- 9 (6) To adopt an official seal.
- 10 (7) To acquire and maintain an administrative building or office.
- 11 (8) To sue and be sued in its own name, and to plead and be impleaded.
- 12 (9) To receive, administer, and comply with the conditions and
13 requirements respecting any gift, grant, or donation of any property or
14 money.
- 15 (10) To acquire by purchase, lease, gift, or otherwise, or to obtain options for
16 the acquisition of, any real or personal property or interest therein.
- 17 (11) To sell, lease, exchange, transfer, or otherwise dispose of, or to grant
18 options for any of these purposes with respect to, any real or personal
19 property or interest therein.
- 20 (12) Subject to the provisions of this Part, to pledge, assign, mortgage, or
21 otherwise grant a security interest in any real or personal property or
22 interest therein, including the right and power to pledge, assign, or
23 otherwise grant a security interest in any money, rents, charges, or other
24 revenues and any proceeds derived by the Authority from any and all
25 sources.
- 26 (13) Subject to the provisions of this Part, to borrow money to finance part or
27 all of a regional facility or a special facility, to issue revenue bonds or
28 notes, to refund any revenue bonds or notes issued by the Authority, or
29 to provide funds for other corporate purposes of the Authority.
- 30 (14) To use officers, employees, agents, and facilities of units of local
31 government or constituent institutions of The University of North
32 Carolina for purposes and upon the terms that are mutually agreeable to
33 between the Authority and the unit or institution.
- 34 (15) To develop and make data, plans, information, surveys, and studies of
35 public facilities within the area where constituent institutions of The
36 University of North Carolina are located, and to prepare and make
37 recommendations in regard thereto.
- 38 (16) To set and collect fees and charges for the use of the regional facilities
39 and special facilities.
- 40 (17) To pay for services rendered by underwriters, financial consultants, or
41 bond attorneys in connection with the issuance of revenue bonds or
42 notes of the Authority out of the proceeds of the bonds or notes. In

1 employing consultants, underwriters, attorneys, and others, the
2 Authority shall promote participation by minority businesses.

3 (18) To exercise the power of eminent domain as provided by G.S. 40A-3(c).

4 (19) To enter into agreements and contracts with units of local government
5 pursuant to, and exercise all powers of a unit of local government
6 derived from, Part 1 of Article 20 of this Chapter. Units of local
7 government may enter into such contracts and agreements with an
8 authority.

9 (20) To purchase or finance real or personal property in the manner provided
10 for cities and counties under G.S. 160A-20.

11 **"§ 160A-480.5. Dissolution of Authority.**

12 The General Assembly may dissolve an authority if all bonds or notes issued by the
13 Authority and all other obligations incurred by the Authority have been fully paid or
14 satisfied. In such event any assets of the Authority shall become the property of the
15 county authorized to levy a room occupancy and prepared food and beverage tax to be
16 distributed to the Authority.

17 **"§ 160A-480.6. Construction contracts.**

18 Article 8 of Chapter 143 of the General Statutes applies to a construction contract of
19 an Authority. An Authority may solicit bids on the basis of separate specifications for the
20 branches or work described in G.S. 143-128(a) and on a single-prime contract basis and
21 accept the lowest bid.

22 **"§ 160A-480.7. Seating at regional facility arena.**

23 The Authority shall ensure that at least fifty percent (50%) of the seats for an athletic
24 event that is sponsored by a constituent institution of The University of North Carolina
25 whose principal campus is in the territorial jurisdiction of the authority and is held at the
26 arena of the regional facility are made available to students at that constituent institution
27 and members of the general public.

28 **"§ 160A-480.8. Bonds.**

29 (a) Terms. – An Authority may provide for the issuance, at one time or from time
30 to time, of bonds or notes to carry out its corporate purposes. The principal of, the
31 interest on, and any premium payable upon the redemption of the bonds or notes shall be
32 payable from the proceeds of bonds or renewal notes, or, in the event bond or renewal
33 note proceeds are not available, from any available revenues or other funds provided for
34 this purpose. The bonds or notes of each issue shall be dated and may be made
35 redeemable prior to maturity at the option of the Authority or otherwise, at one or more
36 prices, on one or more dates, and upon the terms and conditions set by the Authority.
37 The bonds or notes may also be made payable from time to time on demand or tender for
38 purchase by the owner upon terms and conditions set by the Authority. Notes and bonds
39 shall mature at times determined by the Authority, not exceeding 40 years from the date
40 of issue. The Authority shall determine the form and the manner of execution of the
41 bonds or notes, and shall fix the denomination of the bonds or notes and the place of
42 payment of principal and interest. In case an officer whose signature or a facsimile of
43 whose signature appears on any bonds or notes ceases to be an officer before the delivery

1 of the bond or note, the signature or facsimile shall nevertheless be valid and sufficient
2 for all purposes the same as if the officer had remained in office until delivery. The
3 Authority may also provide for the authentication of the bonds or notes by a trustee or
4 fiscal agent.

5 Bonds or notes may be issued under this Part without obtaining, except as otherwise
6 expressly provided in this Part, the consent of any department, division, commission,
7 board, body, bureau, or other agency of the State or of a political subdivision of the State,
8 and without any other proceedings or conditions except as specifically required by this
9 Part or the provisions of the resolution authorizing the issuance of, or any trust agreement
10 securing, the bonds or notes.

11 Prior to the preparation of definitive bonds, the Authority may issue interim receipts
12 or temporary bonds exchangeable for definitive bonds when the bonds have been
13 executed and are available for delivery. The Authority may also provide for the
14 replacement of any bonds or notes which have been mutilated, destroyed, or lost.

15 (b) Use of Proceeds. – The proceeds of a bond or note shall be used solely for the
16 purposes for which the bond or note was issued and shall be disbursed in accordance with
17 the resolution authorizing the issuance of a bond or note and with any trust agreement
18 securing the bond or note. If the proceeds of a bond or note of any issue, by reason of
19 increased construction costs or error in estimates or otherwise, is less than the cost,
20 additional bonds or notes may in like manner be issued to provide the amount of the
21 deficiency.

22 (c) Security. – Bonds or notes issued by an Authority may be secured in one or
23 more of the following ways:

24 (1) By the revenues of the regional facility or special facility.

25 (2) By debt service subsidy payments.

26 (3) By security interests in real or personal property acquired with the
27 proceeds of the bonds or notes or improved with the proceeds of the
28 bonds or notes.

29 (4) By receipts from a room occupancy and prepared food and beverage tax
30 levied by a county and distributed to the Authority.

31 The security for the bonds or notes shall be specified in the resolution or trust instrument
32 authorizing the bonds or notes.

33 (d) Revenues. – The Authority may pledge to the payment of its revenue bonds or
34 notes the revenues from the regional facility or special facility, including revenues from
35 improvements, betterments, or extensions to the facility. The Authority may establish,
36 maintain, revise, charge, and collect such rates, fees, rentals, or other charges for the use,
37 services, and facilities of or furnished by a regional facility or special facility and provide
38 methods of collection of and penalties for nonpayment of these rates, fees, rentals, or
39 other charges. Except as otherwise permitted, the rates, fees, rentals, and charges fixed
40 and charged shall be in an amount that will produce sufficient revenues, with any other
41 available funds, to meet the maintenance and operation expenses of the regional facility
42 or special facility as well as any improvements and renewals and replacements to the
43 facility, including reserves to pay the principal, interest, and redemption premium due, if

1 any, on any bonds or notes secured by the facility, and to fulfill the terms of any
2 agreements made by the Authority with the holders of bonds or notes secured by
3 revenues of the facility. In the event that bonds or notes are to be secured by the
4 revenues of the regional facility or special facility or by debt service subsidy payments,
5 the Authority may adjust the rates, fees, and charges to be collected to reflect the
6 anticipated receipt of funds from debt service subsidy payments.

7 (e) Security Interests. – Bonds or notes may be secured by security interests in any
8 real or personal property either acquired with the proceeds of bonds or notes, or upon
9 which improvements are provided from the proceeds of bonds or notes. The security
10 interest may cover all real and personal property acquired or improved or any portion of
11 the property. The Authority is authorized to enter into deeds of trust, mortgages, security
12 agreements, and similar instruments as shall be necessary to carry out the powers in this
13 subsection. Bonds or notes may also be secured by security interests in any real or
14 personal property conveyed to the Authority by any of its member units or any other
15 person.

16 In the event the Authority fails to perform its obligations with respect to the bonds or
17 notes and foreclosure or similar sale of property subject to a security interest occurs, a
18 deficiency judgment may not be rendered against the Authority except to the extent that
19 the deficiency is payable from either revenues from the regional facility or special facility
20 or from any revenues dedicated by act of the General Assembly to the Authority.

21 (f) Tax Support. – Bonds or notes may be secured by the receipts from a room
22 occupancy and prepared food and beverage tax levied by a county and distributed to the
23 Authority.

24 (g) Issuance. – The issuance of bonds or notes of the Authority is subject to the
25 approval of the Local Government Commission. Upon the filing with the Local
26 Government Commission of a resolution of the Authority requesting that its bonds or
27 notes be sold, the Commission shall determine the manner in which the bonds or notes
28 will be sold and the price or prices at which the bonds or notes will be sold. In
29 determining whether to approve a proposed bond or note issue of the Authority, the Local
30 Government Commission shall consider the criteria for approval of revenue bonds under
31 G.S. 159-86. The Local Government Commission shall approve the proposed issue if it
32 determines the bond or note issue will meet such criteria and will effect the purposes of
33 this Part. With the approval of the Authority, the Local Government Commission shall
34 sell the bonds or notes either at public or private sale in the manner and at the prices
35 determined to be in the best interests of the Authority and to effect the purposes of this
36 Part.

37 (h) Certification of Approval. – Each bond or note that is represented by an
38 instrument shall contain a statement signed by the Secretary of the Local Government
39 Commission, or an assistant designated by the Secretary, certifying that the issuance of
40 the bond or note has been approved under this Chapter. The signature may be a manual
41 signature or a facsimile signature, as determined by the Local Government Commission.
42 Each bond or note that is not represented by an instrument shall be evidenced by a
43 writing relating to the obligation that identifies the obligation or the issue of which it is a

1 part, contains the signed statement certifying approval of the Local Government
2 Commission that is required on an instrument, and is filed with the Local Government
3 Commission. A certification of approval by the Local Government Commission is
4 conclusive evidence that a bond or note complies with this Chapter.

5 (i) State Pledge. – The State pledges to the holder of a bond or note issued under
6 this Chapter that, as long as the bond or note is outstanding and unpaid, the State will not
7 limit or alter the power the Authority had when the bond or note was issued in a way that
8 impairs the ability of the Authority to produce revenues sufficient with other available
9 funds to do all of the following:

10 (1) Maintain and operate the facility for which the bond or note was issued.

11 (2) Pay the principal of, interest on, and redemption premium, if any, of the
12 bond or note.

13 (3) Fulfill the terms of an agreement with the holder.

14 The State further pledges to the holder of a bond or note issued under this Chapter that
15 the State will not impair the rights and remedies of the holder concerning the bond or
16 note.

17 (j) Investment Securities. – All bonds and notes and interest coupons, if any,
18 issued under this Chapter are made investment securities within the meaning of and for
19 all the purposes of Article 8 of the Uniform Commercial Code, as enacted in Chapter 25
20 of the General Statutes.

21 (k) Details of Bonds or Notes. – In fixing the details of bonds or notes, the
22 Authority may provide that the bonds or notes may:

23 (1) Be payable from time to time on demand or tender for purchase by the
24 owner of the bond or note if a credit facility supports the bond or note,
25 unless the Local Government Commission specifically determines that a
26 credit facility is not required because the absence of a credit facility will
27 not materially and adversely affect the financial position of the
28 Authority and the marketing of the bonds or notes at a reasonable
29 interest cost to the Authority.

30 (2) Be additionally supported by a credit facility.

31 (3) Be made subject to redemption or a mandatory tender for purchase prior
32 to maturity.

33 (4) Be capital appreciation bonds.

34 (5) Bear interest at a rate or rates that may vary, including variations
35 permitted pursuant to a par formula.

36 (6) Be made the subject of a remarketing agreement whereby an attempt is
37 made to remarket the bonds or notes to new purchasers prior to their
38 presentment for payment to the provider of the credit facility or to the
39 Authority.

40 (l) Basis of Investment. – In connection with or incidental to the acquisition or
41 carrying of any investment relating to bonds, program of investment relating to bonds, or
42 carrying of bonds, the Authority may, with the approval of the Local Government
43 Commission, enter into a contract to place the investment or obligation of the Authority,

1 as represented by the bonds, investment, or program of investment and the contract or
2 contracts, in whole or in part, on an interest rate, currency, cash flow, or other basis,
3 including the following:

- 4 (1) Interest rate swap agreements, currency swap agreements, insurance
5 agreements, forward payment conversion agreements, and futures.
- 6 (2) Contracts providing for payments based on levels of, or changes in,
7 interest rates, currency exchange rates, or stock or other indices.
- 8 (3) Contracts to exchange cash flows or a series of payments.
- 9 (4) Contracts to hedge payment, currency, rate, spread, or similar exposure,
10 including interest rate floors or caps, options, puts, and calls.

11 The Authority may enter a contract of this type in connection with, or incidental to,
12 entering into or maintaining any agreement that secures bonds. A contract shall contain
13 the payment, security, term, default, remedy, and other terms and conditions the Board
14 considers appropriate. The Authority may enter a contract of this type with any person
15 after giving due consideration, where applicable, of the person's creditworthiness as
16 determined by a rating by a nationally recognized rating agency or any other criteria the
17 Board considers appropriate. In connection with, or incidental to, the issuance or
18 carrying of bonds, or the entering of any contract described in this subsection, the
19 Authority may enter into credit enhancement or liquidity agreements, with payment,
20 interest rate, termination date, currency, security, default, remedy, and other terms and
21 conditions as the Authority determines. Proceeds of bonds and any moneys set aside and
22 pledged to secure payment of bonds or any of the contracts entered into under this
23 subsection may be pledged to and used to service any of the contracts entered into under
24 this section.

25 **"§ 160A-480.9. Trust agreement or resolution.**

26 In the discretion of the Authority, any bonds or notes issued under this Part may be
27 secured by a trust instrument between the Authority and a bank or trust company or
28 individual within the State, or a bank or a trust company outside the State, as trustee. The
29 trust instrument or the resolution of the Authority authorizing the issuance of bonds or
30 notes may pledge and assign all or any part of the revenues, funds, and other property
31 provided for the security of the bonds, including proceeds from the sale of any project, or
32 part thereof, insurance proceeds, and condemnation awards, and may convey or mortgage
33 property to secure a bond issue as provided in this Part.

34 The revenues and other funds derived from the project, except any part thereof that
35 may be necessary to provide reserves therefor, if any, shall be set aside at regular
36 intervals as may be provided in the resolution or trust instrument in a sinking fund which
37 may be thereby pledged to, and charged with, the payment of the principal of and the
38 interest on the bonds or notes as they become due and of the redemption price or the
39 purchase price of bonds retired by call or purchase as therein provided. This pledge shall
40 be valid and binding from the time the pledge is made. The revenues so pledged and
41 thereafter received by the Authority shall immediately be subject to the lien of the pledge
42 without any physical delivery thereof or further act, and the lien of the pledge shall be
43 valid and binding as against all parties having claims of any kind in tort, contract, or

1 otherwise against the Authority, irrespective of whether the parties have notice of the
2 pledge. The use and disposition of money to the credit of such sinking fund shall be
3 subject to the provisions of the resolution or trust instrument. The resolution or trust
4 instrument may contain provisions for protecting and enforcing the rights and remedies of
5 the bondholders as may be reasonable and proper and not in violation of law, including,
6 without limitation, any one or more of the following:

- 7 (1) Acceleration of all amounts payable under the resolution or trust
8 instrument.
- 9 (2) Appointment of a receiver to manage the project and any other property
10 mortgaged or assigned as security for the bonds.
- 11 (3) Foreclosure and sale of the project and any other property mortgaged or
12 assigned as security for the bonds.
- 13 (4) Rights to bring and maintain other actions at law or in equity as may
14 appear necessary or desirable to collect the amounts payable under, or to
15 enforce the covenants made in, the security document.

16 It shall be lawful for any bank or trust company incorporated under the laws of this
17 State which may act as depository of the proceeds of bonds, revenues, or other funds
18 provided under this Part to furnish such indemnifying bonds or to pledge such securities
19 as may be required by the Authority. All expenses incurred in carrying out the provisions
20 of the resolution or trust instrument may be treated as a part of the cost of the project in
21 connection with which bonds or notes are issued or as an expense of administration of the
22 project.

23 The Authority may subordinate bonds or notes to any prior, contemporaneous, or
24 future securities or obligations or lien, mortgage, or other security interest securing bonds
25 or notes.

26 Any owner of bonds or notes issued under the provisions of this Part or any coupons
27 appertaining thereto, and the trustee under any trust agreement securing or resolution
28 authorizing the issuance of such bonds or notes, except to the extent the rights given may
29 be restricted by the trust agreement or resolution, may either at law or in equity, by suit,
30 action, mandamus, or other proceeding, protect and enforce any and all rights under the
31 laws of the State or granted hereunder or under the trust agreement or resolution, or under
32 any other contract executed by the Authority pursuant to this Chapter; and may enforce
33 and compel the performance of all duties required by this Part or by the trust agreement
34 or resolution by the Authority or by any officer of the Authority.

35 **"§ 160A-480.10. Trust funds.**

36 Notwithstanding any other provision of law to the contrary, all money received
37 pursuant to the authority of this Part, whether as proceeds from the sale of bonds or notes
38 or as revenues, shall be deemed to be trust funds to be held and applied solely as provided
39 in this Part. The resolution authorizing the issuance of, or the trust agreement securing,
40 any bonds or notes may provide that any of these moneys may be temporarily invested
41 and reinvested pending their disbursement and shall provide that any officer with whom,
42 or any bank or trust company with which, the moneys shall be deposited shall act as
43 trustee of the moneys and shall hold and apply the moneys for the purpose hereof, subject

1 to any regulations this Part and the resolution or trust agreement may provide. Any of
2 these moneys may be invested as provided in G.S. 159-30, as it may be amended from
3 time to time.

4 **"§ 160A-480.11. Faith and credit of State and units of local government not pledged.**

5 Bonds or notes issued under this Part shall not constitute a debt secured by a pledge of
6 the faith and credit of the State or a political subdivision of the State and shall be payable
7 solely from the revenues, property, and other funds pledged for their payment. The
8 bonds or notes issued by an Authority shall contain a statement that the Authority is
9 obligated to pay the bond or note or the interest on the bond or note only from the
10 revenues, property, or other funds pledged for their payment and that neither the faith and
11 credit nor the taxing power of the State or any political subdivision of the State is pledged
12 as security for the payment of the principal of or the interest or premium on the bonds or
13 notes.

14 **"§ 160A-480.12. Revenue refunding bonds.**

15 The Authority may issue refunding bonds or notes for one or more of the following
16 purposes:

- 17 (1) Refunding any outstanding bonds or notes issued under this Part,
18 including any redemption premium on the bonds or notes and any
19 interest accrued or to accrue to the date of redemption.
- 20 (2) Constructing improvements, additions, extensions or enlargements of
21 the project, or projects in connection with which the bonds or notes to
22 be refunded have been issued.
- 23 (3) Paying all or any part of the cost of any additional project or projects.

24 Refunding bonds or notes shall be issued in accordance with the same procedures and
25 requirements as bonds or notes. Refunding bonds issued under this section may be sold
26 or exchanged for outstanding bonds or notes issued under this Part and, if sold, the
27 proceeds of the refunding bonds may be applied, in addition to any authorized purposes,
28 to the purchase, redemption, or payment of outstanding bonds or notes.

29 Pending the application of the proceeds of refunding bonds, with any other available
30 funds, to the payment of the principal of and accrued interest and any redemption
31 premium on the bonds or notes being refunded, and, if so provided or permitted in
32 securing the same, to the payment of any interest on such refunding bonds and any
33 expenses in connection with such refunding, such proceeds may be invested in direct
34 obligations of, or obligations the principal of and the interest on which are
35 unconditionally guaranteed by, the United States of America which shall mature or which
36 shall be subject to redemption by the holder thereof, at the option of such holder, not later
37 than the respective dates when the proceeds, together with the interest accruing thereon,
38 will be required for the purposes intended.

39 **"§ 160A-480.13. Bonds eligible for investment.**

40 Bonds and notes issued under this Part are hereby made securities in which all public
41 officers, agencies, and public bodies of the State and its political subdivisions, all
42 insurance companies, trust companies, investment companies, banks, savings banks,
43 building and loan associations, credit unions, pension or retirement funds, other financial

1 institutions engaged in business in the State, executors, administrators, trustees, and other
2 fiduciaries may properly and legally invest funds, including capital in their control or
3 belonging to them. These bonds or notes are hereby made securities that may properly
4 and legally be deposited with and received by any officer or agency of the State or
5 political subdivision of the State for any purpose for which the deposit of bonds, notes, or
6 obligations of the State or any political subdivision of the State is authorized by law.
7 This section does not apply to any State pension or retirement fund or a pension or
8 retirement fund of a political subdivision of the State.

9 **"§ 160A-480.14. Taxation of revenue bonds.**

10 Any bonds or notes issued by an Authority under the provisions of this Part, and the
11 interest thereon, are exempt from State income taxes to the same extent that federal bonds
12 or notes, and the interest thereon, are exempt from State income taxes.

13 **"§ 160A-480.15. Members and officers not liable.**

14 No member or officer of an Authority shall be subject to any personal liability or
15 accountability by reason of the execution of any bonds or notes or the issuance of any
16 bonds or notes."

17 Sec. 2. G.S. 40A-3(c) is amended by adding a new subdivision to read:

18 "(9a) A facility authority established under Part 4 of Article 20 of Chapter
19 160A of the General Statutes for purposes authorized by that Part."

20 Sec. 3. G.S. 120-123 is amended by adding a new subdivision to read:

21 "(63) A facility authority established under Part 4 of Article 20 of Chapter
22 160A of the General Statutes."

23 Sec. 4. There is hereby established the Centennial Authority, which is a
24 facility authority under Part 4 of Article 20 of Chapter 160A of the General Statutes. The
25 territorial jurisdiction of the Centennial Authority, as provided by G.S. 160A-480.3(a), is
26 Wake County.

27 Sec. 5. Chapter 594 of the 1991 Session Laws reads as rewritten:

28 "AN ACT TO AUTHORIZE WAKE COUNTY TO LEVY A ROOM
29 OCCUPANCY TAX AND A PREPARED FOOD AND BEVERAGE
30 TAX.

31 "Section 1. Intent. —This act authorizes Wake County to levy a room occupancy tax
32 and a prepared food and beverage tax.

33 "Sec. 2. Definitions. —The definitions in G.S. 105-164.3 apply to this act to the
34 extent they are not inconsistent with the provisions of this act. The following definitions
35 also apply in this act:

36 (1) Financing. Debt service, lease payments, or any other obligations or
37 means of supporting capital costs, together with any related reserve
38 requirements.

39 (2) Net proceeds. The gross proceeds of the taxes levied pursuant to this
40 act less any refunds and the cost to the county of administering and
41 collecting the ~~taxes as provided in Sections 10 and 11 of this act.~~ taxes.

42 (3) Prepared food and beverage. Any food or beverage to which a retailer
43 has added value or has altered its state (other than by cooling alone) by

1 preparing, combining, dividing, heating, or serving, in order to make the
2 food or beverage available for immediate human consumption.

3 (4) Retailer. A caterer or a retailer as defined in G.S. 105-164.3 as in effect
4 on the effective date of this act.

5 (5) Taxable establishment. A hotel, motel, inn, tourist camp, or similar
6 place that is subject to a room occupancy tax levied pursuant to this act
7 and a retailer that sells prepared food or beverages and is subject to the
8 prepared food and beverage tax levied pursuant to this act.

9 "Sec. 3. Sales and Use Tax Statutes. —The provisions of Article 5 and Article 9 of
10 Chapter 105 of the General Statutes apply to this act to the extent they are not
11 inconsistent with the provisions of this act.

12 "Sec. 4. Occupancy Tax. —The Wake County Board of Commissioners may, by
13 resolution, levy a room occupancy tax of up to six percent (6%) of the gross receipts
14 derived from the rental of any room, lodging, or accommodation furnished by a hotel,
15 motel, inn, tourist camp, or similar place within the county that is subject to the State
16 sales tax imposed under G.S. 105-164.4(a)(3). This tax does not apply to
17 accommodations furnished by nonprofit charitable, educational, benevolent, or religious
18 organizations when furnished in furtherance of their nonprofit purpose or to
19 accommodations furnished to the same person for at least 90 consecutive days. Before
20 levying the tax authorized in this section, the board of commissioners must hold a public
21 hearing on the tax. Notice of the public hearing shall be advertised at least 10 days, but
22 not more than 25 days, before the scheduled date of the hearing. The revision of this act
23 by AN ACT TO PROVIDE FOR THE CREATION OF FACILITY AUTHORITIES
24 AND TO ESTABLISH THE CENTENNIAL AUTHORITY does not affect the previous
25 levying of the tax under this section, and no new hearings or resolutions are required.

26 ~~Before a tax may be enacted pursuant to this section, Wake County and the City of~~
27 ~~Raleigh must enter into an interlocal agreement pursuant to Article 20 of Chapter 160A~~
28 ~~of the General Statutes. The agreement shall contain, at the minimum, the type and~~
29 ~~general location of all capital projects to be funded in any way by the proceeds of the tax~~
30 ~~levied under this section. The agreement shall also contain a preliminary schedule for the~~
31 ~~completion of any projects to be so funded. If the city and the county are unable to~~
32 ~~approve and execute the required agreement within three years after the effective date of~~
33 ~~this act, this section is repealed.~~

34 "Sec. 5. Prepared Food and Beverage Tax. —The Wake County Board of
35 Commissioners may, by resolution, levy a prepared food and beverage tax of up to one
36 percent (1%) of the sales price of prepared food and beverages sold at retail for
37 consumption on or off the premises by any retailer within the county that is subject to
38 sales tax imposed by the State under G.S. 105-164.4(a)(1). Before levying the tax
39 authorized in this section, the board of commissioners must hold a public hearing on the
40 tax. Notice of the public hearing shall be advertised at least 10 days, but not more than
41 25 days, before the scheduled date of the hearing. The revision of this act by AN ACT
42 TO PROVIDE FOR THE CREATION OF FACILITY AUTHORITIES AND TO

1 ESTABLISH THE CENTENNIAL AUTHORITY does not affect the previous levying of
2 the tax under this section, and no new hearings or resolutions are required.

3 ~~Before a tax may be enacted pursuant to this section, Wake County and the City of~~
4 ~~Raleigh must enter into an interlocal agreement pursuant to Article 20 of Chapter 160A~~
5 ~~of the General Statutes. The agreement shall contain, at the minimum, the type and~~
6 ~~general location of all capital projects to be funded in any way by the proceeds of the tax~~
7 ~~levied under this section. The agreement shall also contain a preliminary schedule for the~~
8 ~~completion of any projects to be so funded. If the city and the county are unable to~~
9 ~~approve and execute the required agreement within three years after the effective date of~~
10 ~~this act, this section is repealed.~~

11 "Sec. 6. ~~Exemptions.~~ Exemptions and Refunds – (a) Exemptions. – The prepared food
12 and beverage tax does not apply to the following sales of prepared food and beverages:

- 13 (1) Prepared food and beverages served to residents in boarding houses and
14 sold together on a periodic basis with rental of any sleeping room or
15 lodging.
- 16 (2) Retail sales exempt from taxation under G.S. 105-614.13 on the
17 effective date of this act.
- 18 (3) Retail sales through or by means of vending machines.
- 19 (4) Prepared food and beverages served by any taxable establishment
20 subject to the occupancy tax levied pursuant to this act if the charge for
21 the prepared food or beverages is included in a single, nonitemized sales
22 price together with the charge for rental of a room, lodging, or
23 accommodation furnished by the taxable establishment.
- 24 (5) Prepared food and beverages furnished without charge by an employer to
25 any employee.
- 26 (6) Retail sales by grocers or by grocery sections of supermarkets or other
27 diversified retail establishments other than sales of prepared food and
28 beverages in the delicatessen or similar department of the grocer or
29 grocery section.

30 (b) Refunds. – The county shall refund to a nonprofit or governmental entity the
31 prepared food and beverage tax paid by the entity on eligible purchases of prepared food
32 and beverages. A nonprofit or governmental entity's purchase of prepared food and
33 beverages is eligible for a refund under this subsection if the entity is entitled to a refund
34 under G.S. 105-164.14 of local sales and use tax paid on the purchase. The time
35 limitations, application requirements, penalties, and restrictions provided in G.S. 105-
36 164.14(b) and (d) shall apply to refunds to nonprofit entities; the time limitations,
37 application requirements, penalties, and restrictions provided in G.S. 105-164.14(c), (d),
38 and (e) shall apply to refunds to governmental entities. When an entity applies for a
39 refund of the prepared food and beverage tax paid by it on purchases, it shall attach to its
40 application a copy of the application submitted to the Department of Revenue under G.S.
41 105-164.14 for a refund of the sales and use tax on the same purchases. An applicant for
42 a refund under this subsection shall provide any information required by the county to
43 substantiate the claim.

1 "Sec. 7. Date of Levy. —A tax levied under this act shall become effective on the date
2 specified in the resolution or ordinance levying the tax. The levy of the prepared food
3 and beverage tax may not become effective before January 1, 1993.

4 "Sec. 8. Collection. —Every operator of a taxable establishment shall, on and after the
5 effective date of the levy of a tax under this act, collect the tax. The tax shall be stated
6 and charged separately from the rental charge or sales price, shall be shown separately on
7 the taxable establishment's sales records, and shall be paid by the purchaser to the taxable
8 establishment as trustee for and on account of the county. The tax shall be added to the
9 rental charge or sales price and shall be passed on to and collected from the purchaser
10 instead of being borne by the taxable establishment.

11 For the convenience of each retailer and to facilitate the administration of this act, the
12 county shall determine the amount to be added to the sales price of all sales subject to the
13 prepared food and beverage tax. The amounts shall be set forth in a bracket system and
14 distributed to each retailer responsible for collecting the prepared food and beverage tax.
15 The use of the bracket system does not relieve the retailer from the duty and liability of
16 collecting and remitting to the local administrative authority an amount equal to the
17 prepared food and beverage tax levied by the county.

18 "Sec. 9. Administration. —The county shall administer and collect the taxes levied
19 pursuant to this act. ~~Wake County may contract with the City of Raleigh to perform these~~
20 ~~functions.~~

21 The taxes levied pursuant to this act are due and payable to the county in monthly
22 installments on or before the fifteenth day of the month following the month in which the
23 tax accrues. Every taxable establishment liable for the tax shall, on or before the fifteenth
24 day of each month, prepare and render a return to the county. The county shall design,
25 print, and furnish on request to all taxable establishments the necessary forms for filing
26 returns and instructions to ensure the full collection of the tax.

27 Returns filed with the county pursuant to this act are not public records as defined by
28 G.S. 132-1 and may not be disclosed except as required by law.

29 "Sec. 10. Distribution and Use of Tax Proceeds. ~~— Proceeds of Occupancy Tax.~~ (a)

30 Initial Deductions. ~~—It is anticipated for allocation purposes that the annual net~~
31 ~~proceeds realized from the levy of the tax authorized by Section 4 of this act will be at~~
32 ~~least three million eight hundred fifteen thousand dollars (\$3,815,000). The county shall~~
33 ~~distribute the first three million eight hundred fifteen thousand dollars (\$3,815,000) of the~~
34 ~~net proceeds of the tax levied under Section 4 of this act as provided in this section; the~~
35 ~~county shall distribute any proceeds in excess of this amount as provided in Section 12 of~~
36 ~~this act. The county may deduct from the gross proceeds of the taxes collected pursuant~~
37 ~~to Section 4 of this act an amount not to exceed three percent (3%) of the gross proceeds~~
38 ~~to pay for equal to the direct cost of administering and collecting the taxes. taxes, as~~
39 ~~determined by the county. For the first two years the tax levied under Section 4 of this~~
40 ~~act is in effect, before making the distributions provided in subsection (b), the county~~
41 ~~shall deduct from the net proceeds of the tax the sum of one hundred thousand dollars~~
42 ~~(\$100,000) in each fiscal year and shall remit this sum to Wake Technical Community~~
43 ~~College. After the first two years the tax levied under Section 4 of this act is in effect,~~

1 before making the distributions provided in subsection (b), the Board of Commissioners
2 of Wake County may, in its discretion, deduct from the net proceeds of the tax the sum of
3 one hundred thousand dollars (\$100,000) in each fiscal year and remit this sum to Wake
4 Technical Community College. Wake Technical Community College must use funds
5 remitted to it under this subsection only to support its ongoing program of training
6 individuals in hotel and motel management and in food service. Funds received by Wake
7 Technical Community College under this subsection that have not been expended for this
8 purpose at the end of each fiscal year shall revert to Wake County for distribution in the
9 following fiscal year pursuant to this section and Section 12 of this act.

10 (b) Monthly Distributions; Use. – The county shall distribute the net proceeds of
11 the taxes levied under this act on a monthly basis to the Centennial Authority created by
12 the General Assembly under Part 4 of Article 20 of Chapter 160A of the General Statutes.
13 The county shall make the ~~distributions~~ distribution provided in this subsection by the
14 twentieth day of the month following the month in which the tax is collected.

15 (1) ~~Distribution to Raleigh.~~ After deducting the amounts provided in
16 subsection (a), the county shall transfer to the City of Raleigh an amount
17 equal to forty five and twenty five one hundredths percent (45.25%) of
18 the remaining net proceeds of each monthly collection. The net
19 proceeds received by Raleigh shall be applied in accordance with the
20 following priorities:

21 a. ~~The city may use the first six hundred eighty thousand dollars~~
22 ~~(\$680,000) of the net proceeds of the taxes levied under this act~~

23 The Centennial Authority shall use the amounts distributed to it under this act only to
24 fund all or part of the acquisition, construction, financing, debt servicing, maintenance, or
25 operation or promotion of regional facilities or special facilities (or both) as
26 defined by G.S. 160A-480.2, convention centers, civic centers, performing arts centers,
27 coliseums, auditoriums, and museums; to provide off-street parking facilities for use in
28 conjunction with these facilities, and to promote visitor-related activities. such facilities;
29 and to fund visitor-related programs and activities, including cultural programs, events or
30 festivals, and convention and visitor programs and activities of the Greater Raleigh Convention
31 and Visitor Bureau.

32 b. ~~The city shall use any additional net tax proceeds received only~~
33 ~~for (i) the acquisition, construction, renovation, financing, debt~~
34 ~~service, maintenance, and operation of expansions and additions~~
35 ~~to the Raleigh Civic Center Complex or similar facilities, and (ii)~~
36 ~~the construction of sports, cultural, and arts facilities, including a~~
37 ~~coliseum to be built in conjunction with North Carolina State~~
38 ~~University at Raleigh, a performing arts theater, a visual arts~~
39 ~~program, and a children's museum. Any funds not spent in a~~
40 ~~fiscal year may be held in one or more reserve accounts by the~~
41 ~~city for future use in the range of activities allowed by this~~
42 ~~subsection. The city may make expenditures pursuant to this~~
43 ~~subdivision b. only after the city and county have agreed on the~~

~~amount and purpose of the expenditure. The county's approval of an expenditure must be evidenced by a resolution adopted by the board of commissioners.~~

~~(2) Distribution to Cary. After deducting the amount provided in subsection (a), the county shall transfer to the Town of Cary an amount equal to five percent (5%) of the remaining net proceeds of the tax levied under Section 4 of this act. The Town of Cary shall expend these proceeds for public relations and promotional activities for the town and for visitor-related programs and activities, including cultural programs, events, festivals, and other visitor-related programs.~~

~~(3) Distribution to Wake County. After deducting the amount provided in subsection (a), the county shall retain an amount equal to thirty-four and seventy-five one hundredths percent (34.75%) of the remaining net proceeds of the tax levied under Section 4 of this act. Wake County may expend these proceeds only for the Raleigh Civic Center Complex or similar facilities or for construction of sports, cultural, and arts facilities, including a coliseum to be built in conjunction with North Carolina State University at Raleigh, a performing arts theater, a visual arts program, and a children's museum. Any funds not spent in a fiscal year may be held in reserve accounts by the county for future use in the range of activities allowed by this subsection. The county may make expenditures pursuant to this subdivision only after the city and county have agreed on the amount and purpose of the expenditure. The city's approval of an expenditure must be evidenced by a resolution adopted by the city council.~~

~~(4) Distribution to Greater Raleigh Convention and Visitor Bureau. After deducting the amounts provided in subsection (a), the county shall remit fifteen percent (15%) of the remaining net proceeds to the Greater Raleigh Convention and Visitor Bureau. The Greater Raleigh Convention and Visitor Bureau may expend these funds pursuant to the provisions of Section 15 of this act.~~

~~In the event that the amount distributed to the Greater Raleigh Convention and Visitor Bureau under this act is less than one million dollars (\$1,000,000) in a fiscal year, the city and the county shall each pay to the Greater Raleigh Convention and Visitor Bureau a sum, derived from its expected portion of the proceeds of the taxes authorized in this act, equal to one-half of the difference between one million dollars (\$1,000,000) and the amount received by the Bureau, so that the total revenue received by the Bureau equals at least one million dollars (\$1,000,000) in each fiscal year.~~

~~"Sec. 11. Distribution of Prepared Food and Beverage Tax. It is anticipated for allocation purposes that the annual net proceeds realized from the levy of the tax authorized by Section 5 of this act will be at least four million five hundred thousand~~

1 dollars (\$4,500,000). The county shall distribute the first four million five hundred
2 thousand dollars (\$4,500,000) of the net proceeds of the taxes levied under Section 5 of
3 this act as provided in this section; the county shall distribute any proceeds in excess of
4 this amount as provided in Section 13 of this act.

5 The county may deduct from the gross proceeds of the taxes collected pursuant to
6 Section 5 of this act an amount not to exceed three percent (3%) of the gross proceeds to
7 pay for the direct cost of administering and collecting the taxes. The county shall make
8 the distributions provided in this section by the twentieth day of the month following the
9 month in which the tax is collected.

10 (1) ~~Distribution to Raleigh. After deducting the amount provided above,~~
11 ~~the county shall transfer to the City of Raleigh an amount equal to forty-~~
12 ~~seven and seventy-five one hundredths percent (47.75%) of the net~~
13 ~~proceeds of each monthly collection. The net proceeds received by~~
14 ~~Raleigh shall be applied in accordance with the following priorities.~~

15 a. ~~The city may use the first six hundred eighty thousand dollars~~
16 ~~(\$680,000) of the net proceeds of the taxes levied under this act~~
17 ~~to fund the acquisition, construction, financing, debt servicing,~~
18 ~~renovation, maintenance, or operation of convention centers,~~
19 ~~civic centers, performing arts centers, coliseums, auditoriums,~~
20 ~~and museums; to provide off-street parking facilities for use in~~
21 ~~conjunction with such facilities; and to fund visitor related~~
22 ~~programs and activities, including cultural programs, events or~~
23 ~~festivals, and convention and visitor programs and activities of~~
24 ~~the Convention and Visitor Bureau.~~

25 b. ~~The city shall use any additional net tax proceeds received only~~
26 ~~for (i) the acquisition, construction, renovation, financing, debt~~
27 ~~service, maintenance, and operation of expansions and additions~~
28 ~~to the Raleigh Civic Center Complex, and (ii) the construction of~~
29 ~~sports, cultural, and arts facilities, including a coliseum to be~~
30 ~~built in conjunction with North Carolina State University at~~
31 ~~Raleigh, a performing arts theater, a visual arts program, and a~~
32 ~~children's museum. Any funds not spent in a fiscal year may be~~
33 ~~held in one or more reserve accounts by the city for future use in~~
34 ~~the range of activities allowed by this subsection. The city may~~
35 ~~make expenditures pursuant to this section only after the city and~~
36 ~~county have agreed on the amount and purpose of the~~
37 ~~expenditure. The county's approval of an expenditure must be~~
38 ~~evidenced by a resolution adopted by the board of~~
39 ~~commissioners.~~

40 (2) ~~Distribution to Wake County. The county shall retain an amount equal~~
41 ~~to thirty-seven and twenty-five one hundredths percent (37.25%) of the~~
42 ~~net proceeds of the tax levied under Section 5 of this act. Wake County~~
43 ~~may expend these proceeds only for the planning, acquisition,~~

1 ~~renovation, or construction of the Raleigh Civic Center Complex or~~
2 ~~similar facilities or for construction of sports, cultural, and arts facilities,~~
3 ~~including a coliseum to be built in conjunction with North Carolina~~
4 ~~State University at Raleigh, a performing arts theater, a visual arts~~
5 ~~program, and a children's museum. Any funds not spent in a fiscal year~~
6 ~~may be held in reserve accounts by the county for future use in the~~
7 ~~range of activities allowed by this subsection. The county may make~~
8 ~~expenditures pursuant to this subdivision only after the city and county~~
9 ~~have agreed on the amount and purpose of the expenditure. The city's~~
10 ~~approval of an expenditure must be evidenced by a resolution adopted~~
11 ~~by the city council.~~

- 12 ~~(3) Distribution to Greater Raleigh Convention and Visitor Bureau. The~~
13 ~~county shall remit fifteen percent (15%) of the net proceeds of the tax~~
14 ~~levied under Section 5 of this act to the Greater Raleigh Convention and~~
15 ~~Visitor Bureau. The Greater Raleigh Convention and Visitor Bureau~~
16 ~~may expend these funds pursuant to the provisions of Section 15 of this~~
17 ~~act.~~

18 ~~"Sec. 12. Future Revenue Allocations of the Occupancy Tax. In the event that the~~
19 ~~annual net proceeds of the tax levied under Section 4 of this act exceed three million~~
20 ~~eight hundred fifteen thousand dollars (\$3,815,000) in a fiscal year, the additional~~
21 ~~proceeds will be distributed as follows:~~

- 22 ~~(1) Any net proceeds in excess of three million eight hundred fifteen~~
23 ~~thousand dollars (\$3,815,000) but less than four million one dollars~~
24 ~~(\$4,000,001) shall be allocated on the following basis:~~
25 ~~a. Ninety five percent (95%) to the City of Raleigh for the purposes~~
26 ~~set out in Section 10 herein.~~
27 ~~b. Five percent (5%) to the Town of Cary for the purposes set out in~~
28 ~~Section 10 of this act.~~
- 29 ~~(2) Any net proceeds above four million dollars (\$4,000,000) and up to four~~
30 ~~million five hundred thousand dollars (\$4,500,000) shall be distributed~~
31 ~~monthly on the following basis:~~
- 32 ~~a. Twenty five percent (25%) to the Raleigh Regional Convention~~
33 ~~and Visitor Bureau.~~
34 ~~b. Five percent (5%) to the Town of Cary, at least one-half of which~~
35 ~~shall be used only for capital projects authorized under Section~~
36 ~~10 or 11 of this act and the remainder of which shall be used for~~
37 ~~the purposes authorized in Section 10(b)(2) of this act.~~
38 ~~c. Forty seven and five tenths percent (47.5%) to the City of~~
39 ~~Raleigh to be used for the purposes set out in Section 10 of this~~
40 ~~act.~~
41 ~~d. Twenty two and five tenths percent (22.5%) to Wake County for~~
42 ~~any use related to any of the purposes for which any local~~
43 ~~government is authorized by this act to expend tax proceeds.~~

- 1 ~~(3) Any net proceeds above four million five hundred thousand dollars~~
2 ~~(\$4,500,000) shall be distributed monthly on the following basis:~~
- 3 ~~a. Twenty five percent (25%) to the Raleigh Regional Convention~~
4 ~~and Visitor Bureau.~~
- 5 ~~b. Five percent (5%) to the Town of Cary, at least one-half of which~~
6 ~~shall be used only for capital projects authorized under Section~~
7 ~~10 or 11 of this act and the remainder of which shall be used for~~
8 ~~the purposes authorized in Section 10(b)(2) of this act.~~
- 9 ~~c. Thirty five percent (35%) to the City of Raleigh for any lawful~~
10 ~~purpose authorized by this act.~~
- 11 ~~d. Thirty five percent (35%) to Wake County for any lawful~~
12 ~~purpose authorized by this act.~~

13 ~~"Sec. 13. Future Revenue Allocations of the Prepared Food and Beverage Tax. In the~~
14 ~~event that the annual net proceeds of the tax levied under Section 5 of this act exceed four~~
15 ~~million five hundred thousand dollars (\$4,500,000) in a tax year, the additional proceeds~~
16 ~~will be allocated according to the following schedule:~~

- 17 ~~(1) Any additional net proceeds up to six million five hundred thousand~~
18 ~~dollars (\$6,500,000) shall be divided between the City of Raleigh and~~
19 ~~Wake County. The city shall receive seventy five percent (75%) of the~~
20 ~~additional net proceeds for use in activities allowed under Section 10 of~~
21 ~~this act while the county will receive twenty five percent (25%) of the~~
22 ~~net proceeds for use in any lawful activity authorized by this act.~~
- 23 ~~(2) Any net proceeds in excess of six million five hundred thousand dollars~~
24 ~~(\$6,500,000) shall be divided between the City of Raleigh and Wake~~
25 ~~County. The city shall receive sixty percent (60%) of the additional net~~
26 ~~proceeds for use in any lawful purpose authorized by this act while the~~
27 ~~county shall receive the remaining forty percent (40%) of the additional~~
28 ~~net proceeds for use in any lawful purpose authorized by this act.~~

29 ~~"Sec. 14. Restrictions on Certain Capital Projects. This section expires the earlier of~~
30 ~~(i) three years after the effective date of the first tax levied under this act or (ii)~~
31 ~~three and one half years after the date this act is ratified. Notwithstanding any other~~
32 ~~provision of this act, the proceeds of the taxes levied under this act may not be expended~~
33 ~~for the cost of any capital project other than (i) a coliseum to be built in conjunction with~~
34 ~~North Carolina State University at Raleigh, (ii) a civic center complex, (iii) a visual or~~
35 ~~performing arts center, or (iv) a children's museum, and off street parking associated with~~
36 ~~these four projects. As used in this section, the term "cost" includes the cost of~~
37 ~~construction of a capital facility; planning, engineering, as well as architectural and~~
38 ~~consulting services, and any other expenses and charges relating to a new capital project.~~

39 ~~"Sec. 15. Greater Raleigh Convention and Visitor Bureau.~~

- 40 ~~(1) When the board of county commissioners adopts a resolution levying~~
41 ~~the tax, the City of Raleigh shall take immediate action to adopt an~~
42 ~~ordinance establishing the Greater Raleigh Convention and Visitor~~
43 ~~Bureau. The Bureau shall be governed by a Board of Directors~~

1 consisting of 12 members. This Bureau shall be the continuation of the
2 existing Raleigh Convention and Visitor Bureau established pursuant to
3 Chapter 850 of the Session Laws of 1985. At least three of the county's
4 appointees shall reside in Raleigh and at least one of the county's
5 appointees shall reside in Cary. The appointments shall be made as
6 follows:

- 7 a. Five owners or operators of hotels, motels, or other taxable
8 establishments, three of whom shall be elected by the Raleigh
9 City Council and two of whom shall be elected by the Board of
10 Commissioners of Wake County from a list of at least 10
11 nominees furnished by the Raleigh Hotel and Motel Association.
12 The list of nominees shall include the names of at least three
13 restaurant owners or operators.
- 14 b. Two representatives of tourist or convention related businesses,
15 one appointed by the Raleigh City Council and one by the Wake
16 County Board of Commissioners.
- 17 c. One member nominated by the Greater Raleigh Chamber of
18 Commerce and appointed by the Wake County Board of
19 Commissioners.
- 20 d. Four at-large members, two appointed by the City of Raleigh and
21 two appointed by Wake County.

22 Members shall serve according to the ordinances and regulations of the
23 city concerning service on city boards and commissions, except that
24 members appointed by Wake County shall serve according to the
25 ordinances and regulations of Wake County concerning service on
26 county boards and commissions.

- 27 (2) Powers and Duties of Bureau. The Greater Raleigh Convention and
28 Visitor Bureau may contract with any person, firm, or agency to advise
29 and assist it in the promotion of travel, tourism, and conventions. The
30 Bureau shall prepare an annual budget based on anticipated revenues
31 and shall submit the budget to the Raleigh City Manager and Wake
32 County Manager for processing and approval through the regular budget
33 procedures of the city and the county. The Bureau shall make quarterly
34 reports to the Raleigh City Council and the Wake County Board of
35 Commissioners detailing its revenues, expenditures, and activities. The
36 city or the county may audit the Bureau's financial records upon
37 reasonable notice to the Bureau. At the end of each fiscal year, any
38 funds of the Bureau not expended, or obligated or reserved as approved
39 by the Raleigh City Council and the Wake County Board of
40 Commissioners, shall be remitted equally to the City of Raleigh and
41 Wake County for use in accordance with Section 10 of this act.

42 "Sec. 16. Penalties. — A person, firm, corporation, or association who fails or refuses
43 to file a return and pay the tax due under this Part shall pay a penalty of ten dollars (\$10.00)

1 ~~for each day's omission up to a maximum of two thousand dollars (\$2,000) for each return. In~~
2 ~~case of failure or refusal to file the return or pay the tax for a period of 30 days after the time~~
3 ~~required for filing the return or paying the tax, there shall be an additional tax, as a penalty, of~~
4 ~~five percent (5%) of the tax due, with an additional tax of five percent (5%) for each additional~~
5 ~~month or fraction thereof until the tax is paid. The Wake County Board of Commissioners may,~~
6 ~~for good cause shown, compromise or forgive the additional tax penalties imposed by this~~
7 ~~section.~~ act is subject to the civil and criminal penalties set by G.S. 105-236 for failure to
8 pay or file a return for State sales and use taxes. The Wake County Board of
9 Commissioners has the same authority to waive the penalties for a tax levied under this
10 act that the Secretary of Revenue has to waive the penalties for State sales and use taxes.

11 "Sec. 17. Authority to Contract. ~~Wake County and each municipality located in Wake~~
12 ~~County.~~ The Centennial Authority may contract with any person, agency, association, or
13 nonprofit corporation to undertake or carry out the activities and programs for which the
14 proceeds may be expended. All contracts entered into pursuant to this ~~subsection~~ section
15 shall require an annual financial audit of any funds expended and a performance audit of
16 contractual obligations.

17 "Sec. 18. Effect on existing taxes. ~~The~~ levy of a tax pursuant to this act repeals the
18 authority of the county or a unit of local government in Wake County to enact an
19 occupancy tax under any other local act.

20 "Sec. 19. Repeal. ~~The~~ taxes levied pursuant to this authority may be repealed by the
21 county by enacting an ordinance of repeal. No such repeal shall be effective until at least
22 180 days after the passage of the repeal ordinance. Repeal of a tax levied under this act
23 does not affect a liability for a tax that was attached before the effective date of the
24 repeal, nor does it affect a right to a refund of a tax that accrued before the effective date
25 of the repeal.

26 "Sec. 20. This act is effective upon ratification."

27 Sec. 6. The provisions of this act are severable. If any provision of this act is
28 declared invalid by a court, the invalidity does not affect other provisions or applications
29 of this act that can be given effect without the invalid provision or application.

30 Sec. 6.1. G.S. 105-164.14(c) is amended by adding a new subdivision to read:

31 "(21) A facility authority created in Part 4 of Article 20 of Chapter 160A of
32 the General Statutes."

33 Sec. 7. Section 5 of this act becomes effective July 1, 1995, and applies to
34 taxes that accrue on or after that date. Funds received under Chapter 594 of the 1991
35 Session Laws for taxes accruing before July 1, 1995, which are not already encumbered
36 by units of local government shall be transferred to the Centennial Authority to be used
37 for purposes authorized by Chapter 594 of the 1991 Session Laws at the time the tax
38 accrued. The remainder of this act is effective upon ratification.