

28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill takes effect on July 1, 2005.

32 **Utah Code Sections Affected:**

33 AMENDS:

34 **59-12-352**, as last amended by Chapters 156 and 255, Laws of Utah 2004

35 **59-12-603**, as last amended by Chapters 156 and 255, Laws of Utah 2004

36 ENACTS:

37 **59-12-1601**, Utah Code Annotated 1953

38 **59-12-1602**, Utah Code Annotated 1953

39 **59-12-1603**, Utah Code Annotated 1953

40 **59-12-1604**, Utah Code Annotated 1953

41 **59-12-1605**, Utah Code Annotated 1953



43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section **59-12-352** is amended to read:

45 **59-12-352. Transient room tax authority for municipalities -- Purposes for which**
46 **revenues may be used.**

47 (1) The governing body of a municipality may impose a tax of not to exceed 1% on
48 charges for the accommodations and services described in Subsection 59-12-103(1)(i).

49 (2) Subject to the limitations of Subsection (1), a governing body of a municipality
50 may, by ordinance, increase or decrease the tax under this part.

51 (3) A governing body of a municipality shall regulate the tax under this part by
52 ordinance.

53 (4) ~~Revenues~~ (a) A municipality may use revenues generated by the tax under this
54 part ~~may be used~~;

55 (i) for general fund purposes ~~if within the municipality there is not a convention~~
56 facility;

57 (A) as defined in Section 59-12-602; and

58 (B) that is 250,000 square feet or more; or

59 (ii) only for a purpose described in Subsection (4)(b) if within the municipality there is
60 a convention facility:

61 (A) as defined in Section 59-12-602; and

62 (B) that is 250,000 square feet or more.

63 (b) A municipality described in Subsection (4)(a)(ii) may use revenues generated by
64 the tax under this part only for:

65 (i) the expansion or renovation of a convention facility:

66 (A) as defined in Section 59-12-602; and

67 (B) that is 250,000 square feet or more; or

68 (ii) the expansion of a parking lot or parking structure that is appurtenant to a
69 convention facility:

70 (A) as defined in Section 59-12-602; and

71 (B) that is 250,000 square feet or more.

72 Section 2. Section **59-12-603** is amended to read:

73 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --**

74 **Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal**
75 **of tax or tax rate change -- Effective date -- Notice requirements.**

76 (1) In addition to any other taxes, a county legislative body may, as provided in this
77 part, impose a tax as follows:

78 (a) (i) a county legislative body of any county may impose a tax of not to exceed 3% on
79 all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and
80 rentals of motor vehicles made for the purpose of temporarily replacing a person's motor
81 vehicle that is being repaired pursuant to a repair or an insurance agreement; and

82 (ii) beginning on or after January 1, 1999, a county legislative body of any county
83 imposing a tax under Subsection (1)(a)(i) may, in addition to imposing the tax under
84 Subsection (1)(a)(i), impose a tax of not to exceed 4% on all short-term leases and rentals of
85 motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for
86 the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to
87 a repair or an insurance agreement;

88 (b) a county legislative body of any county may impose a tax of not to exceed 1% of all
89 sales of prepared foods and beverages that are sold by restaurants; and

90 (c) a county legislative body of any county may impose a tax of not to exceed .5% on
91 charges for the accommodations and services described in Subsection 59-12-103(1)(i).

92 (2) The revenue from the imposition of the taxes provided for in Subsections (1)(a)
93 through (c) may be used for the purposes of financing tourism promotion, and the
94 development, operation, and maintenance of tourist, recreation, cultural, and convention
95 facilities as defined in Section 59-12-602.

96 (3) The tax imposed under Subsection (1)(c) shall be in addition to the tax imposed
97 under Part 3, Transient Room Tax, and may be imposed only by a county of the first class.

98 (4) A tax imposed under this part may be pledged as security for bonds, notes, or other
99 evidences of indebtedness incurred by a county under Title 11, Chapter 14, Utah Municipal
100 Bond Act, to finance tourism, recreation, cultural, and convention facilities.

101 (5) (a) In order to impose the tax under Subsection (1), each county legislative body
102 shall annually adopt an ordinance imposing the tax.

103 (b) The ordinance under Subsection (5)(a) shall include provisions substantially the
104 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
105 those items and sales described in Subsection (1).

106 (c) The name of the county as the taxing agency shall be substituted for that of the state
107 where necessary, and an additional license is not required if one has been or is issued under
108 Section 59-12-106.

109 (6) In order to maintain in effect its tax ordinance adopted under this part, each county
110 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
111 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
112 amendments to Part 1, Tax Collection.

113 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
114 shall be administered, collected, and enforced in accordance with:

115 (A) the same procedures used to administer, collect, and enforce the tax under:

116 (I) Part 1, Tax Collection; or

117 (II) Part 2, Local Sales and Use Tax Act; and

118 (B) Chapter 1, General Taxation Policies.

119 (ii) Notwithstanding Subsection (7)(a)(i), a tax under this part is not subject to:

120 (A) Sections 59-12-107.1 through 59-12-107.3;

- 121 (B) Subsections 59-12-205(2) through (9); or
122 (C) Sections 59-12-207.1 through 59-12-207.4.
- 123 (b) Except as provided in Subsection (7)(c):
124 (i) for a tax under this part other than the tax under Subsection (1)(a)(ii), the
125 commission shall distribute the revenues to the county imposing the tax; and
126 (ii) for a tax under Subsection (1)(a)(ii), the commission shall distribute the revenues
127 according to the distribution formula provided in Subsection (8).
- 128 (c) Notwithstanding Subsection (7)(b), the commission shall deduct from the
129 distributions under Subsection (7)(b) an administrative charge for collecting the tax as provided
130 in Section 59-12-206.
- 131 (8) The commission shall distribute the revenues generated by the tax under Subsection
132 (1)(a)(ii) to each county collecting a tax under Subsection (1)(a)(ii) [~~according to the following~~
133 ~~formula: (a) the commission shall distribute 70% of the revenues]~~ based on the percentages
134 generated by dividing the revenues collected by each county under Subsection (1)(a)(ii) by the
135 total revenues collected by all counties under Subsection (1)(a)(ii)[~~and~~].
136 [~~(b) the commission shall distribute 30% of the revenues based on the percentages~~
137 ~~generated by dividing the population of each county collecting a tax under Subsection (1)(a)(ii)~~
138 ~~by the total population of all counties collecting a tax under Subsection (1)(a)(ii):]~~
- 139 (9) (a) For purposes of this Subsection (9):
140 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
141 Annexation to County.
142 (ii) "Annexing area" means an area that is annexed into a county.
- 143 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
144 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or
145 change shall take effect:
146 (A) on the first day of a calendar quarter; and
147 (B) after a 90-day period beginning on the date the commission receives notice meeting
148 the requirements of Subsection (9)(b)(ii) from the county.
149 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:
150 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
151 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

- 152 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and
- 153 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
- 154 (9)(b)(ii)(A), the rate of the tax.
- 155 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
- 156 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
- 157 first billing period:
 - 158 (A) that begins after the effective date of the enactment of the tax or the tax rate
 - 159 increase; and
 - 160 (B) if the billing period for the transaction begins before the effective date of the
 - 161 enactment of the tax or the tax rate increase imposed under Subsection (1).
- 162 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
- 163 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
- 164 billing period:
 - 165 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
 - 166 and
 - 167 (B) if the billing period for the transaction begins before the effective date of the repeal
 - 168 of the tax or the tax rate decrease imposed under Subsection (1).
- 169 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:
 - 170 (A) Subsection 59-12-103(1)(e);
 - 171 (B) Subsection 59-12-103(1)(i); or
 - 172 (C) Subsection 59-12-103(1)(k).
- 173 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or
- 174 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a
- 175 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
 - 176 (A) on the first day of a calendar quarter; and
 - 177 (B) after a 90-day period beginning on the date the commission receives notice meeting
 - 178 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.
- 179 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
 - 180 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
 - 181 repeal, or change in the rate of a tax under this part for the annexing area;
 - 182 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

183 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
 184 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
 185 (9)(d)(ii)(A), the rate of the tax.

186 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
 187 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
 188 first billing period:

189 (A) that begins after the effective date of the enactment of the tax or the tax rate
 190 increase; and

191 (B) if the billing period for the transaction begins before the effective date of the
 192 enactment of the tax or the tax rate increase imposed under Subsection (1).

193 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
 194 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
 195 billing period:

196 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
 197 and

198 (B) if the billing period for the transaction begins before the effective date of the repeal
 199 of the tax or the tax rate decrease imposed under Subsection (1).

200 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

201 (A) Subsection 59-12-103(1)(e);

202 (B) Subsection 59-12-103(1)(i); or

203 (C) Subsection 59-12-103(1)(k).

204 Section 3. Section **59-12-1601** is enacted to read:

205 **Part 16. Transient Room Tax for Convention Facilities**

206 **59-12-1601. Title.**

207 This part is known as the "Transient Room Tax for Convention Facilities Act."

208 Section 4. Section **59-12-1602** is enacted to read:

209 **59-12-1602. Definitions.**

210 As used in this part, "convention facility" is as defined in Section 59-12-602.

211 Section 5. Section **59-12-1603** is enacted to read:

212 **59-12-1603. Tax -- Rate -- Enactment or repeal of tax -- Tax rate change --**

213 **Effective date -- Notice requirements.**

214 (1) (a) Beginning on July 1, 2005, through June 30, 2015, a county legislative body of a
215 county of the first class may impose a tax of 1% on charges for the accommodations and
216 services described in Subsection 59-12-103(1)(i).

217 (b) Except as provided in Subsection (1)(c), the revenues generated by the tax
218 authorized by Subsection (1)(a) shall be expended for:

219 (i) the construction, expansion, or renovation of a convention facility; or

220 (ii) the expansion of a parking lot or parking structure that is appurtenant to a
221 convention facility.

222 (c) Notwithstanding Subsection (1)(b), a county legislative body may not expend in any
223 12-month period more than 60% of the revenues generated by a tax authorized by Subsection
224 (1)(a):

225 (i) for a purpose described in Subsection (1)(b); and

226 (ii) relating to one convention facility.

227 (d) The authority to impose a tax authorized by Subsection (1)(a) is in addition to any
228 other authority to impose a tax under this chapter.

229 (2) Subject to Subsection (3), a county legislative body shall regulate the tax authorized
230 under this part by ordinance.

231 (3) (a) For purposes of this Subsection (3):

232 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
233 Annexation to County.

234 (ii) "Annexing area" means an area that is annexed into a county.

235 (b) (i) Except as provided in Subsection (3)(c), if, on or after July 1, 2005, a county
236 legislative body enacts or repeals a tax under this part, the enactment or repeal shall take effect:

237 (A) on the first day of a calendar quarter; and

238 (B) after a 90-day period beginning on the date the commission receives notice meeting
239 the requirements of Subsection (3)(b)(ii) from the county.

240 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

241 (A) that the county legislative body will enact or repeal a tax under this part;

242 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

243 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

244 (D) if the county legislative body enacts the tax described in Subsection (3)(b)(ii)(A),

245 the rate of the tax.

246 (c) (i) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection
247 (3)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

248 (A) that begins after the effective date of the enactment of the tax; and

249 (B) if the billing period for the transaction begins before the effective date of the
250 enactment of the tax imposed under this section.

251 (ii) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection
252 (3)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

253 (A) that began before the effective date of the repeal of the tax; and

254 (B) if the billing period for the transaction begins before the effective date of the repeal
255 of the tax imposed under this section.

256 (iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under
257 Subsection 59-12-103(1)(i).

258 (d) (i) Except as provided in Subsection (3)(e), if, for an annexation that occurs on or
259 after July 1, 2005, the annexation will result in the enactment or repeal of a tax under this part
260 for an annexing area, the enactment or repeal shall take effect:

261 (A) on the first day of a calendar quarter; and

262 (B) after a 90-day period beginning on the date the commission receives notice meeting
263 the requirements of Subsection (3)(d)(ii) from the county that annexes the annexing area.

264 (ii) The notice described in Subsection (3)(d)(i)(B) shall state:

265 (A) that the annexation described in Subsection (3)(d)(i) will result in an enactment or
266 repeal in the rate of a tax under this part for the annexing area;

267 (B) the statutory authority for the tax described in Subsection (3)(d)(ii)(A);

268 (C) the effective date of the tax described in Subsection (3)(d)(ii)(A); and

269 (D) if the county legislative body enacts the tax described in Subsection (3)(d)(ii)(A),
270 the rate of the tax.

271 (e) (i) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection
272 (3)(e)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

273 (A) that begins after the effective date of the enactment of the tax; and

274 (B) if the billing period for the transaction begins before the effective date of the
275 enactment of the tax imposed under this section.

276 (ii) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection
277 (3)(e)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

278 (A) that began before the effective date of the repeal of the tax; and

279 (B) if the billing period for the transaction begins before the effective date of the repeal
280 of the tax imposed under this section.

281 (iii) Subsections (3)(e)(i) and (ii) apply to transactions subject to a tax under
282 Subsection 59-12-103(1)(i).

283 Section 6. Section **59-12-1604** is enacted to read:

284 **59-12-1604. Administration, collection, and enforcement of tax -- Administrative**
285 **fee.**

286 (1) Except as provided in Subsection (2), the tax authorized under this part shall be
287 administered, collected, and enforced in accordance with:

288 (a) the same procedures used to administer, collect, and enforce the tax under:

289 (i) Part 1, Tax Collection; or

290 (ii) Part 2, Local Sales and Use Tax Act; and

291 (b) Chapter 1, General Taxation Policies.

292 (2) Notwithstanding Subsection (1), a tax under this part is not subject to:

293 (a) Sections 59-12-107.1 through 59-12-107.3;

294 (b) Sections 59-12-207.1 through 59-12-207.4; or

295 (c) Subsections 59-12-205(2) through (9).

296 (3) (a) The commission:

297 (i) except as provided in Subsection (3)(a)(ii), shall distribute the revenues generated
298 by the tax to the county within which the revenues were generated; and

299 (ii) notwithstanding Subsection (3)(a)(i), may retain an amount of tax collected under
300 this part of not to exceed the lesser of:

301 (A) 1.5%; or

302 (B) an amount equal to the cost to the commission of administering this part.

303 (b) Any amount the commission retains under Subsection (3)(a)(ii) shall be:

304 (i) placed in the Sales and Use Tax Administrative Fees Account; and

305 (ii) used as provided in Subsection 59-12-206(2).

306 Section 7. Section **59-12-1605** is enacted to read:

307 **59-12-1605. Seller or certified service provider reliance on commission**
308 **information or certain systems.**

309 A seller or certified service provider is not liable for failing to collect and remit a tax at
310 a tax rate imposed under this part if:

311 (1) the tax rate at which the seller or certified service provider collected the tax was
312 derived from a database created by the commission containing:

313 (a) tax rates; or

314 (b) local taxing jurisdiction boundaries;

315 (2) the failure to collect and remit the tax is as a result of the seller's or certified service
316 provider's reliance on incorrect data provided by the commission in the taxability matrix
317 required by Section 328 of the agreement;

318 (3) for a model 2 seller, the failure to collect and remit the tax:

319 (a) is due to an error in the certified automated system used by the model 2 seller; and

320 (b) occurs prior to an audit of the certified automated system that reveals the error in
321 the certified automated system; or

322 (4) for a model 3 seller, the failure to collect and remit the tax:

323 (a) is due to an error in the proprietary system used by the model 3 seller; and

324 (b) occurs prior to an audit of the proprietary system that reveals the error in the
325 proprietary system.

326 Section 8. **Effective date.**

327 This bill takes effect on July 1, 2005.

Legislative Review Note

as of 2-15-05 5:22 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

Passage of this bill could increase local revenues in FY 2006 by \$2,800,000 and by \$2,900,000 in FY 2007. The Tax Commission would require an appropriation of \$61,000 from the Sales Tax Administration Fee to implement the provisions of the bill.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
Restricted Funds	\$61,000	\$0	\$0	\$0
Local Revenue	\$0	\$0	\$2,800,000	\$2,900,000
TOTAL	\$61,000	\$0	\$2,800,000	\$2,900,000

Individual and Business Impact

Passage of this bill would increase the taxes paid by impacted individuals by 1 percent.

Office of the Legislative Fiscal Analyst