

1 **AMENDMENTS TO LOCAL OPTION SALES AND USE TAXES ON**
2 **CERTAIN ACCOMMODATIONS AND SERVICES**

3 2007 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Merlynn T. Newbold**

6 Senate Sponsor: Sheldon L. Killpack

8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Recreational, Tourist, and Convention Bureaus chapter, the
11 Transient Room Tax part, the Tourism, Recreation, Cultural, and Convention Facilities
12 Tax part, and the Governor's Office of Economic Development chapter to address the
13 imposition of a tax on certain accommodations and services and the expenditure or
14 pledging of revenues collected from a tax on certain accommodations and services.

15 **Highlighted Provisions:**

16 This bill:

- 17 ▶ addresses the expenditure or pledging of certain revenues collected from a local
- 18 option sales and use tax on certain accommodations and services under the
- 19 Transient Room Tax part by requiring a percentage of those revenues to be
- 20 deposited into the Transient Room Tax Fund;
- 21 ▶ clarifies that only a county of the first class may impose a tax:
 - 22 • on certain accommodations and services; and
 - 23 • under the Tourism, Recreation, Cultural, and Convention Facilities Tax part;
- 24 ▶ creates the Transient Room Tax Fund; and
- 25 ▶ makes technical changes.

26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **17-31-5.5**, as last amended by Chapter 134, Laws of Utah 2006

33 **59-12-301**, as last amended by Chapter 328, Laws of Utah 2006

34 **59-12-603**, as last amended by Chapters 134 and 253, Laws of Utah 2006

35 ENACTS:

36 **63-38f-2201**, Utah Code Annotated 1953

37 **63-38f-2202**, Utah Code Annotated 1953

38 **63-38f-2203**, Utah Code Annotated 1953



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

41 Section 1. Section **17-31-5.5** is amended to read:

42 **17-31-5.5. Independent audit -- Report to county legislative body -- Content.**

43 (1) The legislative body of each county imposing the transient room tax provided for in
44 Section 59-12-301 shall annually engage an independent auditor to perform an audit to verify
45 that transient room tax funds are used only as authorized by this chapter and to report the
46 findings of the audit to the county legislative body.

47 (2) Subsection (1) applies to the tourism, recreation, cultural, and convention facilities
48 tax provided for in Section 59-12-603, except that the audit verification required under this
49 Subsection (2) shall be for the uses authorized under Section 59-12-603.

50 (3) The report required under Subsection (1) shall include a breakdown of expenditures
51 into the following categories:

52 (a) for the transient room tax, identification of expenditures for:

53 (i) establishing and promoting:

54 (A) recreation;

55 (B) tourism;

56 (C) film production; and

57 (D) conventions;

- 58 (ii) acquiring, leasing, constructing, furnishing, or operating:
- 59 (A) convention meeting rooms;
- 60 (B) exhibit halls;
- 61 (C) visitor information centers;
- 62 (D) museums; and
- 63 (E) related facilities;
- 64 (iii) acquiring or leasing land required for or related to the purposes listed in
- 65 Subsection (3)(a)(ii);
- 66 (iv) mitigation costs as identified in Subsection 17-31-2(1)(d); and
- 67 (v) making the annual payment of principal, interest, premiums, and necessary reserves
- 68 for any or the aggregate of bonds issued to pay for costs referred to in Subsections
- 69 17-31-2(2)(c) and (3)(a); and
- 70 (b) for the tourism, recreation, cultural, and convention facilities tax, identification of
- 71 expenditures for:
- 72 (i) financing tourism promotion, which means an activity to develop, encourage,
- 73 solicit, or market tourism that attracts transient guests to the county, including planning,
- 74 product development, and advertising;
- 75 (ii) the development, operation, and maintenance of the following facilities as defined
- 76 in Section 59-12-602:
- 77 (A) tourist facilities;
- 78 (B) recreation facilities;
- 79 (C) cultural facilities; and
- 80 (D) convention facilities; and
- 81 (iii) a pledge as security for evidences of indebtedness under Subsection
- 82 59-12-603[~~(4)~~] (3).
- 83 (4) A county legislative body shall provide a copy of a report it receives under this
- 84 section to:
- 85 (a) the Governor's Office of Economic Development;

- 86 (b) its tourism tax advisory board; and
- 87 (c) the Office of the Legislative Fiscal Analyst.

88 Section 2. Section **59-12-301** is amended to read:

89 **59-12-301. Transient room tax -- Rate -- Expenditure of revenues -- Enactment or**
90 **repeal of tax -- Tax rate change -- Effective date -- Notice requirements.**

91 (1) (a) ~~[Any]~~ A county legislative body may impose a tax on charges for the
92 accommodations and services described in Subsection 59-12-103(1)(i) at a rate of not to
93 exceed~~[: (i) 3% beginning on or after May 13, 1975, and ending on September 30, 2006; or~~
94 ~~(ii)]~~ 4.25% beginning on or after October 1, 2006.

95 (b) ~~[The]~~ Subject to Subsection (2), the revenues raised from the tax imposed under
96 Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

97 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed
98 under Part 6, Tourism, Recreation, Cultural, and Convention Facilities Tax.

99 (2) If a county legislative body of a county of the first class imposes a tax under this
100 section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the
101 revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

- 102 (a) deposited into the Transient Room Tax Fund created by Section 63-38f-2203; and
- 103 (b) expended as provided in Section 63-38f-2203.

104 ~~[(2)]~~ (3) Subject to Subsection ~~[(3)]~~ (4), a county legislative body:

- 105 (a) may increase or decrease the tax authorized under this part; and
- 106 (b) shall regulate the tax authorized under this part by ordinance.

107 ~~[(3)]~~ (4) (a) For purposes of this Subsection ~~[(3)]~~ (4):

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

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

111 (b) (i) Except as provided in Subsection ~~[(3)]~~ (4)(c), if, on or after July 1, 2004, a
112 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
113 or change shall take effect:

114 (A) on the first day of a calendar quarter; and
115 (B) after a 90-day period beginning on the date the commission receives notice meeting
116 the requirements of Subsection [~~(3)~~] (4)(b)(ii) from the county.
117 (ii) The notice described in Subsection [~~(3)~~] (4)(b)(i)(B) shall state:
118 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;
119 (B) the statutory authority for the tax described in Subsection [~~(3)~~] (4)(b)(ii)(A);
120 (C) the effective date of the tax described in Subsection [~~(3)~~] (4)(b)(ii)(A); and
121 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
122 [~~(3)~~] (4)(b)(ii)(A), the rate of the tax.
123 (c) (i) Notwithstanding Subsection [~~(3)~~] (4)(b)(i), for a transaction described in
124 Subsection [~~(3)~~] (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the
125 first day of the first billing period:
126 (A) that begins after the effective date of the enactment of the tax or the tax rate
127 increase; and
128 (B) if the billing period for the transaction begins before the effective date of the
129 enactment of the tax or the tax rate increase imposed under this section.
130 (ii) Notwithstanding Subsection [~~(3)~~] (4)(b)(i), for a transaction described in
131 Subsection [~~(3)~~] (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first
132 day of the last billing period:
133 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
134 and
135 (B) if the billing period for the transaction begins before the effective date of the repeal
136 of the tax or the tax rate decrease imposed under this section.
137 (iii) Subsections [~~(3)~~] (4)(c)(i) and (ii) apply to transactions subject to a tax under
138 Subsection 59-12-103(1)(i).
139 (d) (i) Except as provided in Subsection [~~(3)~~] (4)(e), if, for an annexation that occurs
140 on or after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the
141 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take

142 effect:

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

144 (B) after a 90-day period beginning on the date the commission receives notice meeting
145 the requirements of Subsection ~~[(3)]~~ (4)(d)(ii) from the county that annexes the annexing area.

146 (ii) The notice described in Subsection ~~[(3)]~~ (4)(d)(i)(B) shall state:

147 (A) that the annexation described in Subsection ~~[(3)]~~ (4)(d)(i) will result in an
148 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

149 (B) the statutory authority for the tax described in Subsection ~~[(3)]~~ (4)(d)(ii)(A);

150 (C) the effective date of the tax described in Subsection ~~[(3)]~~(4)(d)(ii)(A); and

151 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
152 ~~[(3)]~~(4)(d)(ii)(A), the rate of the tax.

153 (e) (i) Notwithstanding Subsection ~~[(3)]~~(4)(d)(i), for a transaction described in
154 Subsection ~~[(3)]~~(4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the
155 first day of the first billing period:

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

158 (B) if the billing period for the transaction begins before the effective date of the
159 enactment of the tax or the tax rate increase imposed under this section.

160 (ii) Notwithstanding Subsection ~~[(3)]~~(4)(d)(i), for a transaction described in Subsection
161 ~~[(3)]~~(4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the
162 last billing period:

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

165 (B) if the billing period for the transaction begins before the effective date of the repeal
166 of the tax or the tax rate decrease imposed under this section.

167 (iii) Subsections ~~[(3)]~~(4)(e)(i) and (ii) apply to transactions subject to a tax under
168 Subsection 59-12-103(1)(i).

169 Section 3. Section **59-12-603** is amended to read:

170 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --**
 171 **Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal**
 172 **of tax or tax rate change -- Effective date -- Notice requirements.**

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

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

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

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

187 (iii) a county legislative body of ~~[any]~~ a county of the first class may impose a tax of
 188 not to exceed .5% on charges for the accommodations and services described in Subsection
 189 59-12-103(1)(i).

190 (b) A tax imposed under Subsection (1)(a) ~~[is in addition to the transient room tax~~
 191 ~~authorized under Part 3, Transient Room Tax, and]~~ is subject to the audit provisions of Section
 192 17-31-5.5.

193 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided
 194 for in Subsections (1)(a)(i) through (iii) may be used for the purposes of:

195 (i) financing tourism promotion; and

196 (ii) the development, operation, and maintenance of tourist, recreation, cultural, and
 197 convention facilities as defined in Section 59-12-602.

198 (b) A county of the first class shall expend at least \$450,000 each year of the revenues
199 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a
200 marketing and ticketing system designed to:

201 (i) promote tourism in ski areas within the county by persons that do not reside within
202 the state; and

203 (ii) combine the sale of:

204 (A) ski lift tickets; and

205 (B) accommodations and services described in Subsection 59-12-103(1)(i).

206 ~~[(3) The tax imposed under Subsection (1)(a)(iii) shall be in addition to the tax~~
207 ~~imposed under Part 3, Transient Room Tax, and may be imposed only by a county of the first~~
208 ~~class.]~~

209 ~~[(4)]~~ (3) A tax imposed under this part may be pledged as security for bonds, notes, or
210 other evidences of indebtedness incurred by a county under Title 11, Chapter 14, Local
211 Government Bonding Act, to finance tourism, recreation, cultural, and convention facilities.

212 ~~[(5)]~~ (4) (a) In order to impose the tax under Subsection (1), each county legislative
213 body shall annually adopt an ordinance imposing the tax.

214 (b) The ordinance under Subsection ~~[(5)]~~ (4)(a) shall include provisions substantially
215 the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only
216 on those items and sales described in Subsection (1).

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

220 ~~[(6)]~~ (5) In order to maintain in effect its tax ordinance adopted under this part, each
221 county legislative body shall, within 30 days of any amendment of any applicable provisions of
222 Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
223 amendments to Part 1, Tax Collection.

224 ~~[(7)]~~ (6) (a) (i) Except as provided in Subsection ~~[(7)]~~ (6)(a)(ii), a tax authorized under
225 this part shall be administered, collected, and enforced in accordance with:

226 (A) the same procedures used to administer, collect, and enforce the tax under:
227 (I) Part 1, Tax Collection; or
228 (II) Part 2, Local Sales and Use Tax Act; and
229 (B) Chapter 1, General Taxation Policies.
230 (ii) A tax under this part is not subject to Section 59-12-107.1 or Subsections
231 59-12-205(2) through (7).
232 (b) Except as provided in Subsection ~~[(7)]~~ (6)(c):
233 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
234 commission shall distribute the revenues to the county imposing the tax; and
235 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues
236 according to the distribution formula provided in Subsection ~~[(8)]~~ (7).
237 (c) ~~[Notwithstanding Subsection (7)(b), the]~~ The commission shall deduct from the
238 distributions under Subsection ~~[(7)]~~ (6)(b) an administrative charge for collecting the tax as
239 provided in Section 59-12-206.
240 ~~[(8)]~~ (7) The commission shall distribute the revenues generated by the tax under
241 Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according
242 to the following formula:
243 (a) the commission shall distribute 70% of the revenues based on the percentages
244 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
245 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and
246 (b) the commission shall distribute 30% of the revenues based on the percentages
247 generated by dividing the population of each county collecting a tax under Subsection
248 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).
249 ~~[(9)]~~ (8) (a) For purposes of this Subsection ~~[(9)]~~ (8):
250 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
251 Annexation to County.
252 (ii) "Annexing area" means an area that is annexed into a county.
253 (b) (i) Except as provided in Subsection ~~[(9)]~~ (8)(c), if, on or after July 1, 2004, a

254 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
255 or change shall take effect:

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

257 (B) after a 90-day period beginning on the date the commission receives notice meeting
258 the requirements of Subsection [~~8~~] (8)(b)(ii) from the county.

259 (ii) The notice described in Subsection [~~8~~] (8)(b)(i)(B) shall state:

260 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

261 (B) the statutory authority for the tax described in Subsection [~~8~~] (8)(b)(ii)(A);

262 (C) the effective date of the tax described in Subsection [~~8~~] (8)(b)(ii)(A); and

263 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
264 [~~8~~] (8)(b)(ii)(A), the rate of the tax.

265 (c) (i) Notwithstanding Subsection [~~8~~] (8)(b)(i), for a transaction described in
266 Subsection [~~8~~] (8)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the
267 first day of the first billing period:

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

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

272 (ii) Notwithstanding Subsection [~~8~~] (8)(b)(i), for a transaction described in
273 Subsection [~~8~~] (8)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first
274 day of the last billing period:

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

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

279 (iii) Subsections [~~8~~] (8)(c)(i) and (ii) apply to transactions subject to a tax under:

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

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

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

283 (d) (i) Except as provided in Subsection [~~(9)~~] (8)(e), if, for an annexation that occurs
284 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
285 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
286 effect:

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

288 (B) after a 90-day period beginning on the date the commission receives notice meeting
289 the requirements of Subsection [~~(9)~~] (8)(d)(ii) from the county that annexes the annexing area.

290 (ii) The notice described in Subsection [~~(9)~~] (8)(d)(i)(B) shall state:

291 (A) that the annexation described in Subsection [~~(9)~~] (8)(d)(i) will result in an
292 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

293 (B) the statutory authority for the tax described in Subsection [~~(9)~~] (8)(d)(ii)(A);

294 (C) the effective date of the tax described in Subsection [~~(9)~~] (8)(d)(ii)(A); and

295 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
296 [~~(9)~~] (8)(d)(ii)(A), the rate of the tax.

297 (e) (i) Notwithstanding Subsection [~~(9)~~] (8)(d)(i), for a transaction described in
298 Subsection [~~(9)~~] (8)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the
299 first day of the first billing period:

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

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

304 (ii) Notwithstanding Subsection [~~(9)~~] (8)(d)(i), for a transaction described in
305 Subsection [~~(9)~~] (8)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first
306 day of the last billing period:

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

309 (B) if the billing period for the transaction begins before the effective date of the repeal

310 of the tax or the tax rate decrease imposed under Subsection (1).

311 (iii) Subsections ~~[(9)]~~ (8)(e)(i) and (ii) apply to transactions subject to a tax under:

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

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

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

315 Section 4. Section **63-38f-2201** is enacted to read:

316 **Part 22. Transient Room Tax Fund Act**

317 **63-38f-2201. Title.**

318 This part is known as the "Transient Room Tax Fund Act."

319 Section 5. Section **63-38f-2202** is enacted to read:

320 **63-38f-2202. Definitions.**

321 As used in this part, "fund" means the Transient Room Tax Fund created by Section
322 63-38f-2203.

323 Section 6. Section **63-38f-2203** is enacted to read:

324 **63-38f-2203. Transient Room Tax Fund -- Source of revenues -- Interest --**
325 **Expenditure or pledge of revenues.**

326 (1) There is created a restricted special revenue fund known as the Transient Room Tax
327 Fund.

328 (2) (a) The fund shall be funded by the portion of the sales and use tax described in
329 Subsection 59-12-301(2).

330 (b) (i) The fund shall earn interest.

331 (ii) Any interest earned on fund monies shall be deposited into the fund.

332 (3) (a) Subject to Subsection (3)(b), the director shall expend or pledge the monies
333 deposited into the fund:

334 (i) to mitigate the impacts of traffic and parking relating to a convention facility within
335 a county of the first class;

336 (ii) for a purpose listed in Section 17-31-2, except that any requirements in Section
337 17-31-2 for the expenditure of monies do not apply; or

338 (iii) for a combination of Subsections (3)(a)(i) and (ii).

339 (b) The director may not expend more than \$20,000,000 in total to mitigate the impacts
340 of traffic and parking relating to a convention facility within a county of the first class.