

**Representative Carl R. Albrecht** proposes the following substitute bill:

**TRANSIENT ROOM TAX PROVISIONS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carl R. Albrecht**

Senate Sponsor: Evan J. Vickers

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**LONG TITLE**

**General Description:**

This bill amends provisions related to the transient room tax.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ modifies expenditure requirements for certain counties that impose a transient room tax;
- ▶ requires a county that imposes a transient room tax to include certain expenditure information in the county's annual report;
- ▶ allows a county auditor to coordinate with the State Tax Commission in determining whether to require an audit of any person that is required to remit a transient room tax;
- ▶ removes certain time limitations applicable to a municipality's authority to impose a transient room tax; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

This bill appropriates in fiscal year 2021:

- ▶ to the State Tax Commission -- Tax Administration -- Auditing Division, as an



26 ongoing appropriation:  
27 • from the General Fund, \$300,000.

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **17-31-2**, as last amended by Laws of Utah 2019, Chapters 136 and 304

33 **17-31-5.5**, as last amended by Laws of Utah 2019, Chapter 304

34 **59-12-118**, as last amended by Laws of Utah 1994, Chapter 259

35 **59-12-302**, as last amended by Laws of Utah 2018, Chapters 258 and 312

36 **59-12-353**, as last amended by Laws of Utah 2015, Chapter 258



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

39 Section 1. Section **17-31-2** is amended to read:

40 **17-31-2. Purposes of transient room tax and expenditure of revenue -- Purchase**  
41 **or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions --**  
42 **Issuance of bonds.**

43 (1) As used in this section:

44 (a) "Aircraft" means the same as that term is defined in Section [72-10-102](#).

45 (b) "Airport" means the same as that term is defined in Section [72-10-102](#).

46 (c) "Airport authority" means the same as that term is defined in Section [72-10-102](#).

47 (d) "Airport operator" means the same as that term is defined in Section [72-10-102](#).

48 (e) "Base year revenue" means the amount of revenue generated by a transient room tax  
49 and collected by a county for fiscal year 2018-19.

50 (f) "Base year promotion expenditure" means the amount of revenue generated by a  
51 transient room tax that a county spent for the purpose described in Subsection (2)(a) during  
52 fiscal year 2018-19.

53 [(a)] (g) "Eligible town" means a town that:

54 (i) is located within a county that has a national park within or partially within the  
55 county's boundaries; and

56 (ii) imposes a resort communities tax authorized by Section [59-12-401](#).

57 (h) "Emergency medical services provider" means an eligible town, a local district, or a  
58 special service district.

59 ~~[(b)]~~ (i) "Town" means a municipality that is classified as a town in accordance with  
60 Section 10-2-301.

61 ~~[(c)]~~ (j) "Transient room tax" means a tax at a rate not to exceed 4.25% authorized by  
62 Section 59-12-301.

63 (2) ~~[Any]~~ Subject to the requirements of this section, a county legislative body may  
64 impose the transient room tax for the purposes of:

65 (a) establishing and promoting recreation, tourism, film production, and conventions;

66 (b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

67 (i) convention meeting rooms;

68 (ii) exhibit halls;

69 (iii) visitor information centers;

70 (iv) museums;

71 (v) sports and recreation facilities including practice fields, stadiums, and arenas; ~~[and]~~

72 (vi) related facilities;

73 (vii) if a national park is located within or partially within the county, the following on  
74 any route designated by the county legislative body:

75 (A) transit service, including shuttle service; and

76 (B) parking infrastructure; and

77 (viii) an airport, if:

78 (A) the county is a county of the fourth, fifth, or sixth class; and

79 (B) the county is the airport operator of the airport;

80 (c) acquiring land, leasing land, or making payments for construction or infrastructure  
81 improvements required for or related to the purposes listed in Subsection (2)(b); ~~[and]~~

82 (d) as required to mitigate the impacts of recreation, tourism, or conventions in  
83 counties of the fourth, fifth, and sixth class, paying for:

84 (i) solid waste disposal operations;

85 (ii) emergency medical services;

86 (iii) search and rescue activities;

87 (iv) law enforcement activities; and

88 (v) road repair and upgrade of:  
 89 (A) class B roads, as defined in Section 72-3-103;  
 90 (B) class C roads, as defined in Section 72-3-104; or  
 91 (C) class D roads, as defined in Section 72-3-105[-]; and  
 92 (e) making the annual payment of principal, interest, premiums, and necessary reserves  
 93 for any of the aggregate of bonds authorized under Subsection (5).

94 (3) (a) The county legislative body of a county that imposes a transient room tax at a  
 95 rate of 3% or less may expend the revenue generated as provided in Subsection (4), after  
 96 making any reduction required by Subsection (6).

97 (b) The county legislative body of a county that imposes a transient room tax at a rate  
 98 that exceeds 3% or increases the rate of transient room tax above 3% may expend:

99 (i) the revenue generated from the transient room tax at a rate of 3% as provided in  
 100 Subsection (4), after making any reduction required by Subsection (6); and

101 (ii) the revenue generated from the portion of the rate that exceeds 3%:

102 (A) for any combination of the purposes described in Subsections (2) and (5); and

103 (B) regardless of the limitation on expenditures for the purposes described in  
 104 Subsection (4).

105 (4) Subject to Subsection (6), a county may not expend more than 1/3 of the revenue  
 106 generated by a rate of transient room tax that does not exceed 3%, for any combination of the  
 107 ~~[following purposes:]~~ purposes described in Subsections (2)(b) through (2)(e).

108 ~~[(a) (i) acquiring, leasing, constructing, furnishing, maintaining, or operating:]~~

109 ~~[(A) convention meeting rooms;]~~

110 ~~[(B) exhibit halls;]~~

111 ~~[(C) visitor information centers;]~~

112 ~~[(D) museums;]~~

113 ~~[(E) sports and recreation facilities including practice fields, stadiums, and arenas; and]~~

114 ~~[(F) related facilities; and]~~

115 ~~[(ii) acquiring land, leasing land, or making payments for construction or infrastructure~~  
 116 ~~improvements required for or related to the purposes described in Subsection (4)(a)(i);]~~

117 ~~[(b) as required to mitigate the impacts of recreation, tourism, or conventions in~~  
 118 ~~counties of the fourth, fifth, and sixth class, to pay for:]~~

119 ~~[(i) solid waste disposal operations;]~~  
 120 ~~[(ii) emergency medical services;]~~  
 121 ~~[(iii) search and rescue activities;]~~  
 122 ~~[(iv) law enforcement activities; and]~~  
 123 ~~[(v) road repair and upgrade of:]~~  
 124 ~~[(A) class B roads, as defined in Section 72-3-103;]~~  
 125 ~~[(B) class C roads, as defined in Section 72-3-104; or]~~  
 126 ~~[(C) class D roads, as defined in Section 72-3-105; or]~~  
 127 ~~[(e) making the annual payment of principal, interest, premiums, and necessary~~  
 128 ~~reserves for any or the aggregate of bonds authorized under Subsection (5).]~~

129 (5) (a) The county legislative body may issue bonds or cause bonds to be issued, as  
 130 permitted by law, to pay all or part of any costs incurred for the purposes set forth in  
 131 ~~[Subsection (4)(a) or (b)]~~ Subsections (2)(b) through (2)(d) that are permitted to be paid from  
 132 bond proceeds.

133 (b) If a county legislative body does not need the revenue generated by the transient  
 134 room tax for payment of principal, interest, premiums, and reserves on bonds issued as  
 135 provided in Subsection ~~[(4)(e)]~~ (2)(e), the county legislative body shall expend that revenue for  
 136 the purposes described in Subsection (2), subject to the limitation of Subsection (4).

137 (6) (a) In addition to the purposes described in Subsection (2), a county legislative  
 138 body may expend up to 4% of the total revenue generated by a transient room tax to pay a  
 139 provider for emergency medical services in one or more eligible towns.

140 ~~[(b) An emergency medical services provider means an eligible town, a local district,~~  
 141 ~~or a special service district.]~~

142 ~~[(c)]~~ (b) A county legislative body shall reduce the amount that the county is  
 143 authorized to expend for the purposes described in Subsection (4) by subtracting the amount of  
 144 transient room tax revenue expended in accordance with Subsection (6)(a) from the amount of  
 145 revenue described in Subsection (4).

146 (7) (a) A county legislative body in a county of the fourth, fifth, or sixth class shall  
 147 expend the revenue generated by a transient room tax as follows:

148 (i) an amount equal to the county's base year promotion expenditure for the purpose  
 149 described in Subsection (2)(a);

150 (ii) an amount equal to the difference between the county's base year revenue and the  
151 county's base year promotion expenditure in accordance with Subsections (3) through (6); and

152 (iii) (A) 37% of the revenue that exceeds the county's base year revenue for the purpose  
153 described in Subsection (2)(a); and

154 (B) subject to Subsection (7)(b), 63% of the revenue that exceeds the county's base  
155 year revenue for any combination of the purposes described in Subsections (2)(b) through (e)  
156 or to pay an emergency medical services provider for emergency medical services in one or  
157 more eligible towns.

158 (b) A county legislative body in a county of the fourth, fifth, or sixth class may not:

159 (i) expend more than 4% of the revenue generated by a transient room tax to pay an  
160 emergency medical services provider for emergency medical services in one or more eligible  
161 towns; or

162 (ii) expend revenue generated by a transient room tax for the purpose described in  
163 Subsection (2)(e) in an amount that exceeds the county's base year promotion expenditure.

164 (d) The provisions of this Subsection (7) apply notwithstanding any other provision of  
165 this section.

166 (e) If the total amount of revenue generated by a transient room tax in a county of the  
167 fourth, fifth, or sixth class is less than the county's base year promotion expenditure:

168 (i) Subsections (7)(a) through (d) do not apply; and

169 (ii) the county legislative body shall expend the revenue generated by the transient  
170 room tax in accordance with Subsections (3) through (6).

171 Section 2. Section 17-31-5.5 is amended to read:

172 **17-31-5.5. Report to county legislative body -- Content.**

173 (1) The legislative body of each county that imposes a transient room tax under Section  
174 59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section  
175 59-12-603 shall prepare annually a report in accordance with Subsection (2).

176 (2) The report described in Subsection (1) shall include a breakdown of expenditures  
177 into the following categories:

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

179 (i) establishing and promoting:

180 (A) recreation;

181 (B) tourism;

182 (C) film production; and

183 (D) conventions;

184 (ii) acquiring, leasing, constructing, furnishing, or operating:

185 (A) convention meeting rooms;

186 (B) exhibit halls;

187 (C) visitor information centers;

188 (D) museums; and

189 (E) related facilities;

190 (iii) acquiring or leasing land required for or related to the purposes listed in

191 Subsection (2)(a)(ii);

192 (iv) mitigation costs as identified in Subsection 17-31-2(2)(d); and

193 (v) making the annual payment of principal, interest, premiums, and necessary reserves

194 for any or the aggregate of bonds issued to pay for costs referred to in Subsections

195 17-31-2~~(4)(c)~~ (2)(e) and (5)(a); and

196 (b) for the tourism, recreation, cultural, convention, and airport facilities tax,

197 identification of expenditures for:

198 (i) financing tourism promotion, which means an activity to develop, encourage,

199 solicit, or market tourism that attracts transient guests to the county, including planning,

200 product development, and advertising;

201 (ii) the development, operation, and maintenance of the following facilities as defined

202 in Section 59-12-602:

203 (A) an airport facility;

204 (B) a convention facility;

205 (C) a cultural facility;

206 (D) a recreation facility; and

207 (E) a tourist facility; and

208 (iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

209 (3) For the transient room tax, the report described in Subsection (1) shall include a

210 breakdown of each expenditure described in Subsection (2)(a)(i), including:

211 (a) whether the expenditure was used for in-state and out-of-state promotion efforts;

- 212 (b) an explanation of how the expenditure targeted a cost created by tourism; and
- 213 (c) an accounting of the expenditure showing that the expenditure was used only for
- 214 costs directly related to a cost created by tourism.

215 ~~[(3)]~~ (4) A county legislative body shall provide a copy of the report described in  
 216 Subsection (1) to:

- 217 (a) the Utah Office of Tourism within the Governor's Office of Economic
- 218 Development;
- 219 (b) its tourism tax advisory board; and
- 220 (c) the Office of the Legislative Fiscal Analyst.

221 Section 3. Section **59-12-118** is amended to read:

222 **59-12-118. Commission's authority to administer sales and use tax.**

223 Except as provided in [~~Section~~] Sections 59-12-209 and 59-12-302, the commission  
 224 shall have exclusive authority to administer, operate, and enforce the provisions of this chapter  
 225 including:

- 226 (1) determining, assessing, and collecting any sales and use tax imposed pursuant to
- 227 this chapter;
- 228 (2) representing each county, city, and town's interest in any administrative proceeding
- 229 involving the state or local option sales and use tax;
- 230 (3) adjudicating any administrative proceedings involving the state or local option sales
- 231 and use tax;
- 232 (4) waiving, reducing, or compromising any penalty and interest imposed in connection
- 233 with any determination of state or local option sales or use tax; and
- 234 (5) prescribing forms and rules to conform with this chapter for the making of returns
- 235 and for the ascertainment, assessment, and collection of the taxes imposed under this chapter.

236 Section 4. Section **59-12-302** is amended to read:

237 **59-12-302. Collection of tax -- Administrative charge.**

238 (1) Except as provided in [~~Subsection (2) or (3)]~~ Subsections (2), (3), and (4), the tax  
 239 authorized under this part shall be administered, collected, and enforced in accordance with:

- 240 (a) the same procedures used to administer, collect, and enforce the tax under:
- 241 (i) Part 1, Tax Collection; or
- 242 (ii) Part 2, Local Sales and Use Tax Act; and



243 (b) Chapter 1, General Taxation Policies.

244 (2) The location of a transaction shall be determined in accordance with Sections  
245 59-12-211 through 59-12-215.

246 (3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or  
247 Subsections 59-12-205(2) through (6).

248 (4) A county auditor may coordinate with the commission in determining whether to  
249 require an audit of any person that is required to remit a tax authorized under this part.

250 ~~[(4)]~~ (5) The commission:

251 (a) shall distribute the revenue collected from the tax to the county within which the  
252 revenue was collected; and

253 (b) shall retain and deposit an administrative charge in accordance with Section  
254 59-1-306 from revenue the commission collects from a tax under this part.

255 Section 5. Section 59-12-353 is amended to read:

256 **59-12-353. Additional municipal transient room tax.**

257 ~~[(1) Subject to the limitations of Subsection (2), the]~~ The governing body of a  
258 municipality may, in addition to the tax authorized under Section 59-12-352, impose a tax of  
259 not to exceed .5% on charges for the accommodations and services described in Subsection  
260 59-12-103(1)(i) if the governing body of the municipality:

261 ~~[(a)]~~ (1) before January 1, 1996, levied and collected a license fee or tax under Section  
262 10-1-203; and

263 ~~[(b)]~~ (2) before January 1, 1997, took official action to obligate the municipality in  
264 reliance on the license fees or taxes under Subsection (1)~~[(a)]~~ to the payment of debt service on  
265 bonds or other indebtedness, including lease payments under a lease purchase agreement.

266 ~~[(2) The governing body of a municipality may impose the tax under this section until~~  
267 ~~the sooner of:]~~

268 ~~[(a) the day on which the following have been paid in full:]~~

269 ~~[(i) the debt service on bonds or other indebtedness, including lease payments under a~~  
270 ~~lease purchase agreement described in Subsection (1)(b); and]~~

271 ~~[(ii) refunding obligations that the municipality incurred as a result of the debt service~~  
272 ~~on bonds or other indebtedness, including lease payments under a lease purchase agreement~~  
273 ~~described in Subsection (1)(b); or]~~

274 ~~[(b) 25 years from the day on which the municipality levied the tax under this section.]~~

275 Section 6. **Appropriation.**

276 The following sums of money are appropriated for the fiscal year beginning July 1,  
277 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for  
278 fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures  
279 Act, the Legislature appropriates the following sums of money from the funds or accounts  
280 indicated for the use and support of the government of the state of Utah.

281 ITEM 1

282 To State Tax Commission -- Tax Administration

283 From General Fund \$300,000

284 Schedule of Programs:

285 Auditing Division \$300,000

286 The Legislature intends that the State Tax Commission use the appropriation under this  
287 item to employ staff or purchase resources to ensure that persons in counties of the fourth, fifth,  
288 and sixth class comply with the collection and remittance requirements of a transient room tax  
289 authorized in Title 17, Chapter 31, Recreational, Tourist, and Convention Bureaus, and Section  
290 [59-12-301](#).