

**Representative David Ure** proposes the following substitute bill:

1                   **SPORTS DEVELOPMENT, TOURISM PROMOTION, AND**  
2                   **TOURISM, RECREATION, CULTURAL, CONVENTION,**  
3                   **AND SPORTS FACILITIES TAX AMENDMENTS**

4                                   2004 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Sponsor: Michael G. Waddoups**

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill amends the Community and Economic Development title and the Sales and  
11                   Use Tax Act.

12                   **Highlighted Provisions:**

13                   This bill:

- 14                   ▶ addresses the powers and duties, membership, and operation of the Board of Travel  
15                   Development;
- 16                   ▶ addresses the powers and duties of the Division of Travel Development and the  
17                   director of the Division of Travel Development;
- 18                   ▶ creates the Tourism Economic Stimulus Fund, including:
- 19                   • specifying the revenues that shall be deposited into the fund;
  - 20                   • providing that the fund shall earn interest;
  - 21                   • providing that the interest shall be deposited into the fund; and
  - 22                   • providing the purposes for which monies deposited into the fund may be used;
- 23                   ▶ provides definitions;
- 24                   ▶ authorizes counties to impose additional taxes on prepared food and beverages sold  
25                   by restaurants and certain accommodations and services under the Tourism, Recreation,



- 26 Cultural, Convention, and Sports Facilities Tax and provides for the  
27 expenditure of revenues generated by these additional taxes;
- 28       ▶ provides that a portion of the revenues generated by the additional taxes shall be  
29 deposited into the Tourism Economic Stimulus Fund;
  - 30       ▶ changes the part name of the Tourism, Recreation, Cultural, and Convention  
31 Facilities Tax to the Tourism, Recreation, Cultural, Convention, and Sports  
32 Facilities Tax;
  - 33       ▶ repeals references to certain tax names;
  - 34       ▶ repeals a purpose statement relating to the Tourism, Recreation, Cultural,  
35 Convention, and Sports Facilities Tax;
  - 36       ▶ addresses the ability of a county legislative body to pledge Tourism, Recreation,  
37 Cultural, Convention, and Sports Facilities Tax revenues as security for bonds,  
38 notes, or other evidences of indebtedness;
  - 39       ▶ repeals the Tourism Marketing Performance Fund part; and  
40       ▶ makes technical changes.

41 **Monies Appropriated in this Bill:**

- 42       This bill appropriates:
- 43       ▶ \$1,500,000 for fiscal year 2004-05 only, from the General Fund to the Tourism  
44 Economic Stimulus Fund.

45 **Other Special Clauses:**

- 46       This bill provides an effective date.  
47       This bill provides a coordination clause.

48 **Utah Code Sections Affected:**

49 AMENDS:

- 50       **9-3-201**, as last amended by Chapter 109, Laws of Utah 1994  
51       **9-3-202**, as last amended by Chapter 176, Laws of Utah 2002  
52       **9-3-203**, as last amended by Chapter 109, Laws of Utah 1994  
53       **9-3-204**, as last amended by Chapter 207, Laws of Utah 2002  
54       **17-31-8**, as enacted by Chapter 159, Laws of Utah 2001  
55       **59-1-302**, as last amended by Chapter 107, Laws of Utah 1994  
56       **59-12-301 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003

57           **59-12-602**, as last amended by Chapter 248, Laws of Utah 1995  
 58           **59-12-603 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003  
 59           **63-55-209**, as last amended by Chapter 291, Laws of Utah 2003

60 ENACTS:

61           **9-3-207**, Utah Code Annotated 1953

62 REPEALS:

63           **9-2-1701**, as enacted by Chapter 301, Laws of Utah 1997  
 64           **9-2-1702**, as last amended by Chapter 159, Laws of Utah 2001  
 65           **9-2-1703**, as last amended by Chapter 159, Laws of Utah 2001  
 66           **9-2-1703.5**, as last amended by Chapters 16 and 83, Laws of Utah 2003  
 67           **9-2-1704**, as last amended by Chapter 159, Laws of Utah 2001  
 68           **9-2-1705**, as last amended by Chapter 159, Laws of Utah 2001  
 69           **9-2-1706**, as enacted by Chapter 159, Laws of Utah 2001  
 70           **59-12-601**, as last amended by Chapter 265, Laws of Utah 1991



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

73           Section 1. Section **9-3-201** is amended to read:

74           **9-3-201. Board of Travel Development.**

- 75           (1) There is created within the department the Board of Travel Development.
- 76           (2) The board shall advise the division in the division's planning, policies, and
- 77 strategies and on trends and opportunities for travel development that may exist in the various
- 78 areas of the state.

79           (3) The board shall perform the duties required by Section 9-3-203.

80           Section 2. Section **9-3-202** is amended to read:

81           **9-3-202. Members -- Meetings -- Expenses.**

- 82           (1) (a) The board shall consist of [~~nine~~] 11 members appointed by the governor to
- 83 four-year terms of office with the consent of the Senate.
- 84           (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
- 85 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
- 86 board members are staggered so that approximately half of the board is appointed every two
- 87 years.

88 (2) The members may not serve more than two full consecutive terms unless the  
89 governor determines that an additional term is in the best interest of the state.

90 (3) Not more than ~~[five]~~ six members of the board may be of the same political party.

91 (4) (a) The members shall be representative of:

92 (i) all areas of the state with ~~[six]~~ five being appointed from separate geographical  
93 areas as provided in Subsection (4)(b); ~~[and]~~

94 (ii) a diverse mix of ~~[the]~~ business ownership or executive management of travel ~~[and]~~  
95 tourism ~~[related industries.]; and~~

96 (iii) policy-level county government.

97 (b) The geographical representatives shall be appointed as follows:

98 (i) one member from Salt Lake, Tooele, ~~[or Morgan]~~ Summit, or Wasatch County;

99 (ii) one member from ~~[Davis, Weber,]~~ Box Elder, Cache, ~~[or]~~ Rich ~~[County],~~ Weber,  
100 Davis, or Morgan County;

101 (iii) one member from Utah, ~~[Summit,]~~ Juab, ~~[or Wasatch]~~ Millard, Beaver, Piute,  
102 Sevier, or Sanpete County;

103 (iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, ~~[or]~~ Uintah, or San  
104 Juan County; and

105 (v) one member from ~~[San Juan, Piute,]~~ Iron, Washington, Wayne, Garfield, or Kane  
106 County~~[-and].~~

107 ~~[(vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.]~~

108 (c) The travel ~~[and]~~, tourism, and industry representatives of ownership and executive  
109 management shall be appointed ~~[from among active participants in the ownership or~~  
110 ~~management of travel and tourism related businesses.]~~ as follows:

111 (i) two members from ownership or executive management of the lodging industry, as  
112 recommended by the lodging industry for the governor's consideration;

113 (ii) one member from ownership or executive management in the motor vehicle rental  
114 industry, as recommended by the motor vehicle rental industry for the governor's consideration;  
115 and

116 (iii) one member from ownership or executive management of the ski industry, as  
117 recommended by the ski industry for the governor's consideration.

118 (d) One member shall be appointed at large from ownership or executive management

119 of business, finance, economic policy, or the academic media marketing community.

120 (e) The county government representative referred to in Subsection (4)(a)(iii) shall be  
121 appointed by the governor from an elected county executive or county legislative body, as  
122 recommended by the Utah Association of Counties for the governor's consideration.

123 (f) (i) The governor may choose to disregard a recommendation made for a board  
124 member under Subsection (4)(c)(i), (ii), (iii), or (4)(e).

125 (ii) The governor may request additional recommendations or make an appointment  
126 without making the request.

127 (5) When a vacancy occurs in the membership for any reason, the replacement shall be  
128 appointed for the unexpired term from the same geographic area or industry representation as  
129 the member whose office was vacated.

130 (6) [~~Five~~] Six members of the board [~~constitutes~~] constitute a quorum for conducting  
131 board business and exercising board powers.

132 (7) The governor shall select one of the board members as chair and one of the board  
133 members as vice chair, each for a [~~two~~] four-year term as recommended by the board for the  
134 governor's consideration.

135 (8) (a) Members shall receive no compensation or benefits for their services, but may  
136 receive per diem and expenses incurred in the performance of the member's official duties at  
137 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

138 (b) Members may decline to receive per diem and expenses for their service.

139 (9) The board shall meet [~~at least once each quarter~~] monthly or as often as the board  
140 determines to be necessary at various locations throughout the state.

141 (10) Members who may have a potential conflict of interest in consideration of fund  
142 allocation decisions shall identify the potential conflict and abstain from voting on the issue.

143 (11) (a) The board may invite the current chair of the Utah Tourism Industry Coalition  
144 to participate ex officio in board activities.

145 (b) The chair of the Utah Tourism Industry Coalition may not vote or receive  
146 compensation or per diem expenses for participating in board activities.

147 (12) (a) The board shall determine attendance requirements for maintaining a  
148 designated board seat.

149 (b) If a board member fails to attend according to the requirements established

150 pursuant to Subsection (12)(a), the board member shall be replaced upon written certification  
151 from the board chair or vice chair to the governor.

152 (c) A replacement appointed by the governor under Subsection (12)(b) shall serve for  
153 the remainder of the board member's unexpired term.

154 Section 3. Section **9-3-203** is amended to read:

155 **9-3-203. Board duties.**

156 (1) The board shall:

157 (a) ~~[review]~~ have limited policy authority to approve a program of [information,] state  
158 advertising, [and publicity relating to the recreational, scenic, historic, highway, and tourist  
159 attractions of the state at large; and] marketing, and branding, taking into account the long-term  
160 strategic plan, economic trends, and opportunities for travel development on a statewide basis,  
161 as a condition of its distribution of funds to the division from the Tourism Economic Stimulus  
162 Fund under Section 9-3-207;

163 ~~[(b) encourage and assist in the coordination of the activities of persons, firms,~~  
164 ~~associations, corporations, civic groups, and governmental agencies engaged in publicizing,~~  
165 ~~developing, and promoting the scenic attractions and tourist advantages of the state.]~~

166 (b) review the division programs for coordination and integration of advertising and  
167 branding themes to be used whenever possible in all division programs, including recreational,  
168 scenic, historic, and tourist attractions of the state at large;

169 (c) encourage and assist in coordination of the activities of persons, firms, associations,  
170 corporations, civic groups, and governmental agencies engaged in publicizing, developing, and  
171 promoting the scenic attractions and tourist advantages of the state; and

172 (d) (i) establish a Cooperative Program from monies in the Tourism Economic  
173 Stimulus Fund under Section 9-3-207 for use by cities, counties, nonprofit destination  
174 marketing organizations, and similar public entities for the purpose of supplementing monies  
175 committed by these entities for advertising and promotion to and for out-of-state residents to  
176 attract them to attend events sponsored by these entities;

177 (ii) the Cooperative Program shall be allocated 20% of the revenues from the Tourism  
178 Economic Stimulus Fund;

179 (iii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
180 the board shall make rules;

181 (A) establishing eligibility, advertising, and timing requirements, and criteria; and  
 182 (B) providing for an approval process for applications;  
 183 (iv) an application from an eligible applicant to receive monies from the Cooperative  
 184 Program must be submitted on or before the appropriate date established by the board; and  
 185 (v) Cooperative Program monies not used in each fiscal year shall be returned to the  
 186 Tourism Economic Stimulus Fund.

187 (2) The board may:  
 188 (a) solicit and accept contributions of moneys, services, and facilities from any other  
 189 sources, public or private, and shall use these funds for promoting the general interest of the  
 190 state in travel and tourism[-]; and  
 191 (b) establish subcommittees for the purpose of assisting the board in an advisory role  
 192 only.

193 (3) The board may not, except as otherwise provided in Subsection (1)(a), make policy  
 194 related to the management or operation of the division.

195 Section 4. Section **9-3-204** is amended to read:

196 **9-3-204. Division of Travel Development -- Powers and duties -- Travel**  
 197 **development plan -- Annual report and survey.**

198 (1) There is created within the department the Division of Travel Development under  
 199 the administration and general supervision of the director.

200 (2) (a) The division shall be under the policy direction of the director.

201 (b) The director shall receive approval from the Board of Travel Development under  
 202 Subsection 9-3-203(1)(a) to execute the statewide advertising, marketing, and branding  
 203 campaign.

204 (3) The division shall:

205 (a) be the travel development authority of the state;

206 (b) develop a travel [~~promotion~~] advertising, marketing, and branding program for the  
 207 state;

208 (c) develop a plan to increase the economic contribution by tourists visiting the state;

209 (d) plan and conduct a program of information, advertising, and publicity relating to  
 210 the recreational, scenic, historic, [~~highway,~~] and tourist advantages and attractions of the state  
 211 at large; and

212 (e) encourage and assist in the coordination of the activities of persons, firms,  
213 associations, corporations, travel regions, counties, and governmental agencies engaged in  
214 publicizing, developing, and promoting the scenic attractions and tourist advantages of the  
215 state[; and].

216 (4) Any plan provided for under Subsection (3) shall address, but not be limited to,  
217 enhancing the state's image, promoting Utah as a year-round destination, encouraging  
218 expenditures by visitors to the state, and expanding the markets where the state is promoted.

219 (5) The division is encouraged to[:] conduct a regular and ongoing research program to  
220 identify statewide economic trends and conditions in the tourism sector of the economy and to  
221 provide an independent evaluation of the economic efficiency of the advertising and branding  
222 campaigns conducted under this part.

223 [~~(a) conduct surveys on tourism promotion activities undertaken by cities and counties~~  
224 ~~within the state; and]~~

225 [~~(b) in collaboration with the cities and counties surveyed, make an annual report to the~~  
226 ~~Legislature on the economic benefit of those activities to the state and the cities and counties~~  
227 ~~surveyed by the division.]~~

228 Section 5. Section **9-3-207** is enacted to read:

229 **9-3-207. Tourism Economic Stimulus Fund.**

230 (1) As used in this section:

231 (a) "fund" means the Tourism Economic Stimulus Fund created in this section; and

232 (b) "sports facility" means an organization that is:

233 (i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal  
234 Revenue Code; and

235 (ii) created to foster national and international amateur sports competitions to be held  
236 in the state.

237 (2) There is created a restricted special revenue fund known as the Tourism Economic  
238 Stimulus Fund.

239 (3) The fund consists of monies generated from the following revenue sources:

240 (a) any monies remaining in the Tourism Marketing Performance Fund as of July 1,  
241 2004;

242 (b) revenues required to be deposited into the fund by Section 59-12-603; and



243 (c) any appropriations made to the fund by the Legislature.

244 (4) (a) The fund shall earn interest.

245 (b) All interest earned on fund monies shall be deposited into the fund.

246 (5) (a) Except as provided in Subsection (5)(b), the director may use fund monies, as  
247 authorized and approved by the Board of Travel Development, to pay for the statewide  
248 advertising, marketing, and branding campaign for promotion of the state as conducted by the  
249 division.

250 (b) Notwithstanding Subsection (5)(a), for each calendar year beginning on or after the  
251 calendar year beginning on January 1, 2005, the director shall distribute the first \$500,000  
252 deposited into the fund during the calendar year to one or more sports facilities as determined  
253 by the department by rule made in accordance with Title 63, Chapter 46a, Utah Administrative  
254 Rulemaking Act.

255 Section 6. Section **17-31-8** is amended to read:

256 **17-31-8. Tourism tax advisory boards.**

257 (1) (a) Except as provided in Subsection (1)(b), any county that collects the following  
258 taxes shall operate a tourism tax advisory board:

259 (i) the [~~transient room~~] tax allowed under Section 59-12-301; or

260 (ii) the [~~tourism, recreation, cultural, and convention facilities~~] tax allowed under  
261 Section 59-12-603.

262 (b) Notwithstanding Subsection (1)(a), a county is exempt from Subsection (1)(a) if the  
263 county has an existing board, council, committee, convention visitor's bureau, or body that  
264 substantially conforms with Subsections (2), (3), and (4).

265 (2) A tourism tax advisory board created under Subsection (1) shall consist of at least  
266 five members.

267 (3) A tourism tax advisory board shall be composed of any of the following members  
268 that:

269 (a) are residents of the county; and

270 (b) represent the local:

271 (i) hotel and lodging industry;

272 (ii) restaurant industry;

273 (iii) recreational facilities;

- 274 (iv) convention facilities;
- 275 (v) museums;
- 276 (vi) cultural attractions; or
- 277 (vii) other tourism-related industries.

278 (4) A tourism tax advisory board shall advise the county legislative body on the best  
 279 use of revenues collected from:

- 280 (a) the ~~[transient room]~~ tax allowed under Section 59-12-301; and
- 281 (b) the ~~[tourism, recreation, cultural, and convention facilities]~~ tax allowed under  
 282 Section 59-12-603.

- 283 (5) A member of any county tourism tax advisory board:
- 284 (a) may not receive compensation or benefits for the member's services; and
- 285 (b) may receive per diem and expenses incurred in the performance of the member's  
 286 official duties.

287 Section 7. Section **59-1-302** is amended to read:

288 **59-1-302. Penalty for nonpayment of sales, use, withholding, or fuels taxes --**  
 289 **Jeopardy proceedings.**

- 290 (1) The provisions of this section apply to the following taxes in this title:
- 291 (a) ~~[state and local sales and use]~~ a tax under Chapter 12, ~~[Parts 1 and 2]~~ Part 1, Tax  
 292 Collection;
- 293 (b) a tax under Chapter 12, Part 2, Local Sales and Use Tax Act;
- 294 ~~[(b) transient room]~~ (c) a tax under Chapter 12, Part 3, Transient Room Tax;
- 295 ~~[(c) resort communities]~~ (d) a tax under Chapter 12, Part 4, Resort Communities Tax;
- 296 ~~[(d) public transit]~~ (e) a tax under Chapter 12, Part 5, Public Transit Tax;
- 297 ~~[(e) tourism, recreation, cultural, and convention facilities]~~
- 298 (f) a tax under Chapter 12, Part 6, Tourism, Recreation, Cultural, Convention, and  
 299 Sports Facilities Tax;
- 300 ~~[(f) motor fuel, clean fuel, special fuel, and aviation fuel taxes under Chapter 13, Parts~~  
 301 ~~2, 3, and 4; and]~~
- 302 ~~[(g) withholding tax under Chapter 10, Part 4.]~~
- 303 (g) a tax under Chapter 13, Part 2, Motor Fuel;
- 304 (h) a tax under Chapter 13, Part 3, Special Fuel;

305            (i) a tax under Chapter 13, Part 4, Aviation Fuel; and  
306            (j) a tax under Chapter 10, Part 4, Withholding of Tax.  
307            (2) Any person required to collect, truthfully account for, and pay over any tax listed in  
308 Subsection (1) who willfully fails to collect the tax, fails to truthfully account for and pay over  
309 the tax, or attempts in any manner to evade or defeat any tax or the payment of the tax, shall be  
310 liable for a penalty equal to the total amount of the tax evaded, not collected, not accounted for,  
311 or not paid over. This penalty is in addition to other penalties provided by law.  
312            (3) (a) If the commission determines in accordance with Subsection (2) that a person is  
313 liable for the penalty, the commission shall notify the taxpayer of the proposed penalty.  
314            (b) The notice of proposed penalty shall:  
315            (i) set forth the basis of the assessment; and  
316            (ii) be mailed by registered mail, postage prepaid, to the person's last-known address.  
317            (4) Upon receipt of the notice of proposed penalty, the person against whom the  
318 penalty is proposed may:  
319            (a) pay the amount of the proposed penalty at the place and time stated in the notice; or  
320            (b) proceed in accordance with the review procedures of Subsection (5).  
321            (5) Any person against whom a penalty has been proposed in accordance with  
322 Subsections (2) and (3) may contest the proposed penalty by filing a petition for an adjudicative  
323 proceeding with the commission.  
324            (6) If the commission determines that the collection of the penalty is in jeopardy,  
325 nothing in this section may prevent the immediate collection of the penalty in accordance with  
326 the procedures and requirements for emergency proceedings in Title 63, Chapter 46b,  
327 Administrative Procedures Act.  
328            (7) (a) In any hearing before the commission and in any judicial review of the hearing,  
329 the commission and the court shall consider any inference and evidence that a person has  
330 willfully failed to collect, truthfully account for, or pay over any tax listed in Subsection (1).  
331            (b) It is prima facie evidence that a person has willfully failed to collect, truthfully  
332 account for, or pay over any of the taxes listed in Subsection (1) if the commission or a court  
333 finds that the person charged with the responsibility of collecting, accounting for, or paying  
334 over the taxes:  
335            (i) made a voluntary, conscious, and intentional decision to prefer other creditors over

336 the state government or utilize the tax money for personal purposes;

337 (ii) recklessly disregarded obvious or known risks, which resulted in the failure to  
338 collect, account for, or pay over the tax; or

339 (iii) failed to investigate or to correct mismanagement, having notice that the tax was  
340 not or is not being collected, accounted for, or paid over as provided by law.

341 (c) The commission or court need not find a bad motive or specific intent to defraud  
342 the government or deprive it of revenue to establish willfulness under this section.

343 (d) If the commission determines that a person is liable for the penalty under  
344 Subsection (2), the commission shall assess the penalty and give notice and demand for  
345 payment. The notice and demand for payment shall be mailed by registered mail, postage  
346 prepaid, to the person's last-known address.

347 Section 8. Section **59-12-301 (Effective 07/01/04)** is amended to read:

348 **59-12-301 (Effective 07/01/04). Transient room tax -- Rate -- Enactment or repeal**  
349 **of tax -- Tax rate change -- Effective date -- Notice requirements.**

350 (1) (a) Any county legislative body may impose a transient room tax not to exceed 3%  
351 of the rent for every occupancy of a suite or room:

352 (i) on the following entities doing business as motor courts, motels, hotels, inns, or  
353 providing similar public accommodations:

354 (A) a person;

355 (B) a company;

356 (C) a corporation; or

357 (D) a person, group, or organization similar to Subsections (1)(a)(i)(A) through (C);

358 and

359 (ii) if the suite or room is regularly rented for less than 30 consecutive days.

360 (b) The revenues raised from the tax imposed under Subsection (1)(a) shall be used for  
361 the purposes listed in Section 17-31-2.

362 (c) The tax imposed under Subsection (1)(a) shall be in addition to the [~~tourism;~~  
363 ~~recreation, cultural, and convention~~] tax imposed under Part 6, Tourism, Recreation, Cultural,  
364 [~~and~~] Convention, and Sports Facilities Tax.

365 (d) A county legislative body imposing a tax under this part shall impose the tax on the  
366 rents described in Subsection (1)(a) relating to the Olympic Winter Games of 2002 made to or

367 by an organization exempt from federal income taxation under Section 501(c)(3), Internal  
368 Revenue Code, except for rents described in Subsection (1)(a):

369 (i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter  
370 Games of 2002;

371 (ii) exclusively used by:

372 (A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the  
373 Olympic Winter Games of 2002; or

374 (B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic  
375 Winter Games of 2002; and

376 (iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of  
377 2002 does not receive reimbursement.

378 (2) Subject to Subsection (3), a county legislative body:

379 (a) may increase or decrease the transient room tax; and

380 (b) shall regulate the transient room tax by ordinance.

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

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

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

385 (b) (i) Except as provided in Subsection (3)(c), if, on or after July 1, 2004, a county  
386 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or  
387 change shall take effect:

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

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

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

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

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

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

395 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
396 (3)(b)(ii)(A), the rate of the tax.

397 (c) (i) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection

398 (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
399 first billing period:

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

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

404 (ii) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection  
405 (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
406 billing period:

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

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

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

413 (d) (i) Except as provided in Subsection (3)(e), if, for an annexation that occurs on or  
414 after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of  
415 a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

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

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

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

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

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

424 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
425 (3)(d)(ii)(A), the rate of the tax.

426 (e) (i) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection  
427 (3)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
428 first billing period:

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

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

433 (ii) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection  
434 (3)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
435 billing period:

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

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

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

442 Section 9. Section **59-12-602** is amended to read:

443 **59-12-602. Definitions.**

444 As used in this part:

445 (1) "Convention facility" means any publicly owned or operated convention center,  
446 sports arena, or other facility at which conventions, conferences, and other gatherings are held  
447 and whose primary business or function is to host such conventions, conferences, and other  
448 gatherings.

449 (2) "Cultural facility" means any publicly owned or operated museum, theater, art  
450 center, music hall, or other cultural or arts facility.

451 (3) "Recreation facility" or "tourist facility" means any publicly owned or operated  
452 park, campground, marina, dock, golf course, water park, historic park, monument,  
453 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

454 (4) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain, or  
455 fast-food service where food is prepared for immediate consumption.

456 (b) "Restaurant" does not include:

457 (i) any retail establishment whose primary business or function is the sale of fuel or  
458 food items for off-premise, but not immediate, consumption; and

459 (ii) a theater that sells food items, but not a dinner theater.

460 (5) "Sports facility" is as defined in Section 9-3-207.

461 Section 10. Section **59-12-603 (Effective 07/01/04)** is amended to read:

462 **59-12-603 (Effective 07/01/04). County tax -- Bases -- Rates -- Use of revenues --**

463 **Collection -- Adoption of ordinance required -- Administration -- Distribution --**

464 **Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

465 (1) In addition to any other taxes, a county legislative body may, as provided in this  
466 part, impose a [~~tourism, recreation, cultural, and convention~~] tax as follows:

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

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

477 (b) (i) a county legislative body of any county may impose a tax of not to exceed 1%  
478 [~~of~~] on all sales of prepared foods and beverages that are sold by restaurants; and

479 (ii) (A) beginning on or after January 1, 2005, a county legislative body of any county  
480 may impose a tax of not to exceed .125% on all sales of prepared foods and beverages that are  
481 sold by restaurants if the county legislative body imposes a tax under:

482 (I) Subsection (1)(b)(i); and

483 (II) Subsection (1)(c)(ii)(A); and

484 (B) the revenues generated by the tax authorized under Subsection (1)(b)(ii)(A) shall  
485 be expended as provided in Subsection (3);

486 (c) (i) a county legislative body of [~~any~~] a county of the first class may impose a tax of  
487 not to exceed [~~1/2% of the rent for every occupancy of a suite or room:~~] .5% on charges for the  
488 accommodations and services described in Subsection 59-12-103(1)(i); and

489 [~~(i) on the following entities doing business as motor courts, motels, hotels, inns, or~~  
490 ~~providing similar public accommodations:~~]



491 ~~[(A) a person;]~~  
492 ~~[(B) a company;]~~  
493 ~~[(C) a corporation; or]~~  
494 ~~[(D) a person, group, or organization similar to Subsections (1)(c)(i)(A) through (C);~~  
495 ~~and]~~  
496 ~~[(ii) if the suite or room is regularly rented for less than 30 consecutive days.]~~  
497 ~~[(2) The revenue from the imposition of the taxes provided for in]~~  
498 (ii) (A) beginning on or after January 1, 2005, a county legislative body of any county  
499 may impose a tax of not to exceed 1.5% on charges for the accommodations and services  
500 described in Subsection 59-12-103(1)(i) if the county legislative body imposes a tax under:  
501 (I) for a county of the first class, Subsections (1)(b)(ii)(A) and (1)(c)(i); or  
502 (II) for a county other than a county of the first class, Subsection (1)(b)(ii)(A); and  
503 (B) the revenues generated by a tax authorized under Subsection (1)(c)(ii)(A) shall be  
504 expended as provided in Subsection (3).  
505 (2) Subject to Subsection (3), the revenues generated by a tax authorized under  
506 Subsections (1)(a) through (c) [may] shall be used for the purposes of financing:  
507 (a) tourism promotion[~~;~~ and];  
508 (b) the development, operation, and maintenance of tourist, recreation, cultural, and  
509 convention facilities [as defined in Section 59-12-602.]; and  
510 (c) sports facilities from revenues deposited into the Tourism Economic Stimulus Fund  
511 as provided in Section 9-3-207.  
512 ~~[(3) The tax imposed under Subsection (1)(c) shall be in addition to the transient room~~  
513 ~~tax imposed under Part 3, Transient Room Tax, and may be imposed only by a county of the~~  
514 ~~first class.]~~  
515 (3) The revenues generated by the taxes authorized under Subsections (1)(b)(ii)(A) and  
516 (1)(c)(ii)(A) shall be expended as follows:  
517 (a) the commission shall for each month deduct from the revenues generated by the  
518 taxes authorized under Subsections (1)(b)(ii)(A) and (1)(c)(ii)(A) the administrative charge  
519 described in Subsection (7)(c);  
520 (b) after deducting the administrative charge as provided in Subsection (3)(a), the  
521 commission shall deposit 1/3 of the remaining revenues into the Tourism Economic Stimulus

522 Fund created in Section 9-3-207; and

523 (c) after making the deposit required by Subsection (3)(b), the commission shall  
524 distribute any remaining revenues to the county within which the revenues were generated to  
525 be expended for one or more of the purposes described in:

526 (i) Subsection (2)(a); or

527 (ii) Subsection (2)(b).

528 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), a tax imposed under this part  
529 shall be levied at the same time and collected in the same manner as provided in Part 2, Local  
530 Sales and Use Tax Act.

531 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to  
532 Subsections 59-12-205(2) through (5).

533 (b) A county legislative body may pledge a tax imposed under this part [~~may be~~  
534 ~~pledged~~] as security for bonds, notes, or other evidences of indebtedness incurred by [a] the  
535 county under Title 11, Chapter 14, Utah Municipal Bond Act, to finance tourism, recreation,  
536 cultural, and convention facilities.

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

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

542 (ii) A county legislative body imposing a tax under this part shall impose the tax as  
543 provided in this section on the leases, rentals, and sales described in Subsection (1) relating to  
544 the Olympic Winter Games of 2002 made to or by an organization exempt from federal income  
545 taxation under Section 501(c)(3), Internal Revenue Code, except for leases, rentals, and sales  
546 described in Subsection (1):

547 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter  
548 Games of 2002;

549 (B) exclusively used by:

550 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the  
551 Olympic Winter Games of 2002; or

552 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic

553 Winter Games of 2002; and

554 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of  
555 2002 does not receive reimbursement.

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

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

563 (7) The commission shall:

564 (a) administer, collect, and enforce the tax authorized under this part pursuant to:

565 (i) the same procedures used to administer, collect, and enforce the sales and use tax  
566 under Part 1, Tax Collection; and

567 (ii) Chapter 1, General Taxation Policies;

568 (b) (i) except as provided in Subsection (3) or (7)(c), for a tax under this part other than  
569 the tax under Subsection (1)(a)(ii), distribute the revenues to the county imposing the tax; and

570 (ii) except as provided in Subsection (7)(c), for a tax under Subsection (1)(a)(ii),  
571 distribute the revenues according to the distribution formula provided in Subsection (8); and

572 (c) deduct from the distributions under Subsection (7)(b) an administrative charge for  
573 collecting the tax as provided in Section 59-12-206.

574 (8) The commission shall distribute the revenues generated by the tax under Subsection  
575 (1)(a)(ii) to each county collecting a tax under Subsection (1)(a)(ii) according to the following  
576 formula:

577 (a) the commission shall distribute 70% of the revenues based on the percentages  
578 generated by dividing the revenues collected by each county under Subsection (1)(a)(ii) by the  
579 total revenues collected by all counties under Subsection (1)(a)(ii); and

580 (b) the commission shall distribute 30% of the revenues based on the percentages  
581 generated by dividing the population of each county collecting a tax under Subsection (1)(a)(ii)  
582 by the total population of all counties collecting a tax under Subsection (1)(a)(ii).

583 (9) (a) For purposes of this Subsection (9):

- 584 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,  
585 Annexation to County.
- 586 (ii) "Annexing area" means an area that is annexed into a county.
- 587 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county  
588 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or  
589 change shall take effect:
- 590 (A) on the first day of a calendar quarter; and  
591 (B) after a 90-day period beginning on the date the commission receives notice meeting  
592 the requirements of Subsection (9)(b)(ii) from the county.
- 593 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:
- 594 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;  
595 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);  
596 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and  
597 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
598 (9)(b)(ii)(A), the rate of the tax.
- 599 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection  
600 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
601 first billing period:
- 602 (A) that begins after the effective date of the enactment of the tax or the tax rate  
603 increase; and  
604 (B) if the billing period for the transaction begins before the effective date of the  
605 enactment of the tax or the tax rate increase imposed under Subsection (1).
- 606 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection  
607 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
608 billing period:
- 609 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
610 and  
611 (B) if the billing period for the transaction begins before the effective date of the repeal  
612 of the tax or the tax rate decrease imposed under Subsection (1).
- 613 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:  
614 (A) Subsection 59-12-103(1)(e);

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

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

617 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or  
618 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a  
619 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

621 (B) after a 90-day period beginning on the date the commission receives notice meeting  
622 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

623 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:

624 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,  
625 repeal, or change in the rate of a tax under this part for the annexing area;

626 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

627 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

628 (D) if the county enacts the tax or changes the rate of the tax described in Subsection  
629 (9)(d)(ii)(A), the rate of the tax described in Subsection (9)(d)(ii)(A).

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

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

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

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

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

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

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

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

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

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

648 Section 11. Section **63-55-209** is amended to read:

649 **63-55-209. Repeal dates, Title 9.**

650 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is  
651 repealed July 1, 2004.

652 (2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

653 (3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is  
654 repealed July 1, 2010.

655 (b) Sections 59-7-610 and 59-10-108.7, regarding tax credits for certain persons in  
656 recycling market development zones, are repealed for taxable years beginning on or after  
657 January 1, 2011.

658 (c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under  
659 Section 59-7-610 or 59-10-108.7:

660 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or  
661 59-10-108.7 if the machinery or equipment is purchased on or after July 1, 2010; or

662 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b), if  
663 the expenditure is made on or after July 1, 2010.

664 (d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit  
665 in accordance with Section 59-7-610 or 59-10-108.7 if:

666 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-108.7; and

667 (ii) (A) for the purchase price of machinery or equipment described in Section  
668 59-7-610 or 59-10-108.7, the machinery or equipment is purchased on or before June 30, 2010;  
669 or

670 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b),  
671 the expenditure is made on or before June 30, 2010.

672 (4) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act, is repealed July  
673 1, 2008.

674 (5) Title 9, Chapter 3, Part 2, Division of Travel Development, is repealed July 1,  
675 2009.

676 [~~5~~] (6) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is

677 repealed July 1, 2009.

678 [~~(6)~~ (7) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1,  
679 2006.

680 [~~(7) Title 9, Chapter 13, Utah Technology and Small Business Finance Act, is repealed~~  
681 ~~July 1, 2002.~~]

682 Section 12. **Repealer.**

683 This bill repeals:

684 Section **9-2-1701, Purpose.**

685 Section **9-2-1702, Definitions.**

686 Section **9-2-1703, Creation and administration of fund.**

687 Section **9-2-1703.5, Appropriations to the fund.**

688 Section **9-2-1704, Distribution of fund monies -- Determination of recipients.**

689 Section **9-2-1705, Creation of Tourism Marketing Performance Fund Committee --**  
690 **Members -- Appointment -- Qualifications -- Terms -- Quorum -- Per diem and expenses**  
691 **-- Staff.**

692 Section **9-2-1706, Duties of Tourism Marketing Performance Fund Committee.**

693 Section **59-12-601, Purpose statement.**

694 Section 13. **Appropriation.**

695 There is appropriated from the General Fund for fiscal year 2004-05 only, \$1,500,000  
696 to the Tourism Economic Stimulus Fund created in Section 9-3-207.

697 Section 14. **Effective date.**

698 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2004.

699 (2) Notwithstanding Subsection (1):

700 (a) the following sections take effect on January 1, 2005:

701 (i) 17-31-8;

702 (ii) 59-1-302;

703 (iii) 59-12-301;

704 (iv) 59-12-602; and

705 (v) 59-12-603; and

706 (b) the repeal of Section 59-12-601 takes effect on January 1, 2005.

707 Section 15. **Coordinating S.B. 60 with H.B. 273.**

708 If this S.B. 60 and H.B. 273, Tax and Charge Amendments, both pass, it is the intent of  
709 the Legislature that the Office of Legislative Research and General Counsel, in preparing the  
710 Utah Code database for publication, include in the database a rewritten Subsection  
711 59-12-603(7) to read as follows:

712 "(7) (a) (i) [~~The commission~~] Except as provided in Subsection (7)(a)(ii), a tax  
713 authorized under this part shall be administered, collected, and enforced in accordance with:

714 [~~(a) administer, collect, and enforce the tax authorized under this part pursuant to:~~]

715 [~~(i) (A) the same procedures used to administer, collect, and enforce the [sales and use]~~  
716 tax under:

717 (I) Part 1, Tax Collection;

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

719 [~~(ii) (B) Chapter 1, General Taxation Policies[;].~~]

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

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

722 (B) Subsections 59-12-205(2) through (9); or

723 (C) Sections 59-12-207.1 through 59-12-207.4.

724 (b) Except as provided in Subsection (7)(c):

725 [~~(b) (i) [except as provided in Subsection (7)(c);]~~] for a tax under this part other than  
726 the tax under Subsection (1)(a)(ii), except as provided in Subsection (3), the commission shall  
727 distribute the revenues to the county imposing the tax; and

728 (ii) [~~except as provided in Subsection (7)(c);]~~ for a tax under Subsection (1)(a)(ii), the  
729 commission shall distribute the revenues according to the distribution formula provided in  
730 Subsection (8)[; and].

731 (c) Notwithstanding Subsection (7)(b), the commission shall deduct from the  
732 distributions under Subsection (7)(b) an administrative charge for collecting the tax as provided  
733 in Section 59-12-206."