

**EXPENDITURES FOR TOURISM,  
RECREATION, CULTURAL, AND  
CONVENTION FACILITIES AND  
ACTIVITIES**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: J. Stuart Adams**

Senate Sponsor: Scott K. Jenkins

|    |                  |                    |                       |
|----|------------------|--------------------|-----------------------|
| 9  | Cosponsors:      | Janice M. Fisher   | LaWanna Lou Shurtliff |
| 10 | Sheryl L. Allen  | Bradley T. Johnson | Mark W. Walker        |
| 11 | DeMar Bud Bowman | Steven R. Mascaro  | Peggy Wallace         |
| 12 | David N. Cox     | Ross I. Romero     |                       |

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to revenue sources and expenditures for tourism, recreation, cultural, and convention facilities and activities.

**Highlighted Provisions:**

This bill:

► requires an audit of and report on the use of tourism, recreation, cultural, and convention facilities tax funds imposed by the legislative body of a county;

**⚡→ ► modifies provisions related to the composition and duties of county tourism tax advisory boards; ←⚡**

► provides that the report on the use of transient room tax funds and tourism, recreation, cultural, and convention facilities tax funds shall include a breakdown of expenditures of the tax funds into designated categories;

► provides that a copy of the report shall be forwarded to the Governor's Office of Economic Development, the county's tourism tax advisory board, and the Office of the Legislative Fiscal Analyst; and



28           ▶ makes certain technical changes.

29 **Monies Appropriated in this Bill:**

30           None

31 **Other Special Clauses:**

32           None

33 **Utah Code Sections Affected:**

34 AMENDS:

35           **17-31-5.5**, as enacted by Chapter 270, Laws of Utah 1996

35a **§→ 17-31-8, as last amended by Chapter 255, Laws of Utah 2004 ←§**

36           **59-12-603**, as last amended by Chapters 105 and 269, Laws of Utah 2005



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

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

40           **17-31-5.5. Independent audit -- Report to county legislative body -- Content.**

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

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

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

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

51           (i) establishing and promoting:

52           (A) recreation;

53           (B) tourism;

54           (C) film production; and

55           (D) conventions;

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

57           (A) convention meeting rooms;

58           (B) exhibit halls;

59 (C) visitor information centers;

60 (D) museums; and

61 (E) related facilities;

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

63 Subsection (3)(a)(ii);

64 (iv) mitigation costs as identified in Subsection 17-31-2(1)(d); and

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

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

67 17-31-2(2)(c) and (3)(a); and

68 (b) for the tourism, recreation, cultural, and convention facilities tax, identification of  
69 expenditures for:

70 (i) financing tourism promotion, which means an activity to develop, encourage,  
71 solicit, or market tourism that attracts transient guests to the county, including planning,  
72 product development, and advertising;

73 (ii) the development, operation, and maintenance of the following facilities as defined  
74 in Section 59-12-602:

75 (A) tourist facilities;

76 (B) recreation facilities;

77 (C) cultural facilities; and

78 (D) convention facilities; and

79 (iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(4).

80 (4) A county legislative body shall provide a copy of a report it receives under this  
81 section to:

82 (a) the Governor's Office of Economic Development;

83 (b) its tourism tax advisory board; and

84 (c) the Office of the Legislative Fiscal Analyst.

84a **§→ Section 2. Section 17-31-8 is amended to read:**

84b **17-31-8. Tourism tax advisory boards.**

84c **(1) (a) Except as provided in Subsection (1)(b), any county that collects the following**  
84d **taxes shall operate a tourism tax advisory board:**

84e **(i) the tax allowed under Section 59-12-301; or**

84f **(ii) the tax allowed under Section 59-12-603.**

84g **(b) Notwithstanding Subsection (1)(a), a county is exempt from Subsection (1)(a) if the**  
84h **county has an existing board, council, committee, convention visitor's bureau, or body that ←§**

84i **§→** substantially conforms with Subsections (2), (3), and (4).

84j (2) A tourism tax advisory board created under Subsection (1) shall consist of at least  
84k five members.

84l (3) A tourism tax advisory board shall be composed of ~~(any of)~~ the following  
84m members that [:

84n (a) ] are residents of the county [~~and~~ ] :

84o [ ~~(b) represent the local:~~

84p (i) ~~hotel and lodging industry;~~

84q ~~(ii) restaurant industry;~~

84r ~~(iii) recreational facilities;~~

84s ~~(iv) convention facilities;~~

84t ~~(v) museums;~~

84u ~~(vi) cultural attractions; or~~

84v ~~(vii) other tourism-related industries.]~~

84w (a) a majority of the members shall be current employees of entities in the  
84x county that are subject to the taxes referred to in Sections 59-12-301 or 59-12-603; and

84y (b) the balance of the board's membership shall be employees of recreational facilities,  
84z convention facilities, museums, cultural attractions, or other tourism related industries located  
84aa within the county.

84ab (4) (a) Each tourism tax advisory board shall advise the county legislative body on the  
84ac best use of revenues collected from the tax allowed under Section 59-12-301 by providing the  
84ad legislative body with a priority listing for proposed expenditures based on projected available  
84ae tax revenues supplied to the board by the county legislative body on an annual basis .

84af (b) Each tourism tax advisory board in a county operating under the county  
84ag commission form of government under Section 17-52-501 or the expanded county commission  
84ah form under Section 17-52-502 shall advise the county legislative body on the best use of  
84ai revenues collected from the tax allowed under Section 59-12-603 by providing the  
84aj legislative body with a priority listing for proposed expenditures based on projected available  
84ak tax revenues supplied to the board by the county legislative body on an annual basis.

84al (5) A member of any county tourism tax advisory board:

84am (a) may not receive compensation or benefits for the member's services; and

84an (b) may receive per diem and expenses incurred in the performance of the member's  
84ao official duties. ←§

85 Section **§→** [2] 3 ←§ . Section 59-12-603 is amended to read:

86 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --**

87 **Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal**

88 **of tax or tax rate change -- Effective date -- Notice requirements.**

89 (1) (a) In addition to any other taxes, a county legislative body may, as provided in this

90 part, impose a tax as follows:

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

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

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

104 ~~[(c)]~~ (iii) a county legislative body of any county may impose a tax of not to exceed  
105 .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

106 (b) A tax imposed under Subsection (1)(a) is in addition to the transient room tax  
107 authorized under Part 3, Transient Room Tax, and is subject to the audit provisions of Section  
108 17-31-5.5.

109 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided  
110 for in Subsections (1)(a)(i) through ~~[(c)]~~ (iii) may be used for the purposes of:

111 (i) financing tourism promotion; and

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

114 (b) A county of the first class shall expend at least \$450,000 each year of the revenues  
115 from the imposition of a tax authorized by Subsection (1)~~[(c)]~~(a)(iii) within the county to fund  
116 a marketing and ticketing system designed to:

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

119 (ii) combine the sale of:

120 (A) ski lift tickets; and

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

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

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

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

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

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

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

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

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

143 (I) Part 1, Tax Collection; or

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

145 (B) Chapter 1, General Taxation Policies.

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

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

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

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

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

151 (i) for a tax under this part other than the tax under Subsection (1)(a)(ii), the

152 commission shall distribute the revenues to the county imposing the tax; and

153 (ii) for a tax under Subsection (1)(a)(ii), the commission shall distribute the revenues  
154 according to the distribution formula provided in Subsection (8).

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

158 (8) The commission shall distribute the revenues generated by the tax under Subsection  
159 (1)(a)[~~(ii)~~](i)(B) to each county collecting a tax under Subsection (1)(a)[~~(ii)~~](i)(B) according to  
160 the following formula:

161 (a) the commission shall distribute 70% of the revenues based on the percentages  
162 generated by dividing the revenues collected by each county under Subsection (1)(a)[~~(ii)~~](i)(B)  
163 by the total revenues collected by all counties under Subsection (1)(a)[~~(ii)~~](i)(B); and

164 (b) the commission shall distribute 30% of the revenues based on the percentages  
165 generated by dividing the population of each county collecting a tax under Subsection  
166 (1)(a)[~~(ii)~~](i)(B) by the total population of all counties collecting a tax under Subsection  
167 (1)(a)[~~(ii)~~](i)(B).

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

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

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

172 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county  
173 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or  
174 change shall take effect:

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

176 (B) after a 90-day period beginning on the date the commission receives notice meeting  
177 the requirements of Subsection (9)(b)(ii) from the county.

178 (ii) The notice described in Subsection (9)(b)(i)(B) shall state:

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

180 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);

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

182 (D) if the county enacts the tax or changes the rate of the tax described in Subsection

183 (9)(b)(ii)(A), the rate of the tax.  
184 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection  
185 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
186 first billing period:  
187 (A) that begins after the effective date of the enactment of the tax or the tax rate  
188 increase; and  
189 (B) if the billing period for the transaction begins before the effective date of the  
190 enactment of the tax or the tax rate increase imposed under Subsection (1).  
191 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection  
192 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
193 billing period:  
194 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
195 and  
196 (B) if the billing period for the transaction begins before the effective date of the repeal  
197 of the tax or the tax rate decrease imposed under Subsection ~~[(+)]~~(9)(b)(i).  
198 (iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:  
199 (A) Subsection 59-12-103(1)(e);  
200 (B) Subsection 59-12-103(1)(i); or  
201 (C) Subsection 59-12-103(1)(k).  
202 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or  
203 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a  
204 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:  
205 (A) on the first day of a calendar quarter; and  
206 (B) after a 90-day period beginning on the date the commission receives notice meeting  
207 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.  
208 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:  
209 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,  
210 repeal, or change in the rate of a tax under this part for the annexing area;  
211 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);  
212 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and  
213 (D) if the county enacts the tax or changes the rate of the tax described in Subsection



214 (9)(d)(ii)(A), the rate of the tax.  
 215 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection  
 216 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the  
 217 first billing period:  
 218 (A) that begins after the effective date of the enactment of the tax or the tax rate  
 219 increase; and  
 220 (B) if the billing period for the transaction begins before the effective date of the  
 221 enactment of the tax or the tax rate increase imposed under Subsection (1).  
 222 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection  
 223 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last  
 224 billing period:  
 225 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;  
 226 and  
 227 (B) if the billing period for the transaction begins before the effective date of the repeal  
 228 of the tax or the tax rate decrease imposed under Subsection [~~(1)~~] (9)(b)(i).  
 229 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:  
 230 (A) Subsection 59-12-103(1)(e);  
 231 (B) Subsection 59-12-103(1)(i); or  
 232 (C) Subsection 59-12-103(1)(k).

**Legislative Review Note**  
 as of 11-10-05 9:57 AM

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

**Office of Legislative Research and General Counsel**

**Interim Committee Note**  
 as of 12-22-05 9:34 AM

The Workforce Services and Community and Economic Development Interim Committee recommended this bill.

**Legislative Committee Note**

**as of 12-22-05 9:34 AM**

The Tourism Task Force recommended this bill.