

1 **EXPENDITURES FOR TOURISM,**
2 **RECREATION, CULTURAL, AND**
3 **CONVENTION FACILITIES AND**
4 **ACTIVITIES**

5 2006 GENERAL SESSION
6 STATE OF UTAH

7 **Chief Sponsor: J. Stuart Adams**

8 Senate Sponsor: Scott K. Jenkins

| | | | |
|----|------------------|--------------------|-----------------------|
| 9 | Cosponsors: | Janice M. Fisher | LaWanna Lou Shurtliff |
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| 11 | DeMar Bud Bowman | Steven R. Mascaro | Peggy Wallace |
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14 **LONG TITLE**

15 **General Description:**

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

18 **Highlighted Provisions:**

19 This bill:

- 20 ▶ requires an audit of and report on the use of tourism, recreation, cultural, and
21 convention facilities tax funds imposed by the legislative body of a county;
- 22 ▶ modifies provisions related to the composition and duties of county tourism tax
23 advisory boards;
- 24 ▶ provides that the report on the use of transient room tax funds and tourism,
25 recreation, cultural, and convention facilities tax funds shall include a breakdown of
26 expenditures of the tax funds into designated categories;
- 27 ▶ provides that a copy of the report shall be forwarded to the Governor's Office of
28 Economic Development, the county's tourism tax advisory board, and the Office of
29 the Legislative Fiscal Analyst; and

30 ▶ makes certain technical changes.

31 **Monies Appropriated in this Bill:**

32 None

33 **Other Special Clauses:**

34 None

35 **Utah Code Sections Affected:**

36 AMENDS:

37 **17-31-5.5**, as enacted by Chapter 270, Laws of Utah 1996

38 **17-31-8**, as last amended by Chapters 131 and 255, Laws of Utah 2004

39 **59-12-603**, as last amended by Chapters 105 and 269, Laws of Utah 2005



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

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

43 **17-31-5.5. Independent audit -- Report to county legislative body -- Content.**

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

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

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

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

54 (i) establishing and promoting:

55 (A) recreation;

56 (B) tourism;

57 (C) film production; and

58 (D) conventions;
59 (ii) acquiring, leasing, constructing, furnishing, or operating;
60 (A) convention meeting rooms;
61 (B) exhibit halls;
62 (C) visitor information centers;
63 (D) museums; and
64 (E) related facilities;
65 (iii) acquiring or leasing land required for or related to the purposes listed in
66 Subsection (3)(a)(ii);
67 (iv) mitigation costs as identified in Subsection 17-31-2(1)(d); and
68 (v) making the annual payment of principal, interest, premiums, and necessary reserves
69 for any or the aggregate of bonds issued to pay for costs referred to in Subsections
70 17-31-2(2)(c) and (3)(a); and
71 (b) for the tourism, recreation, cultural, and convention facilities tax, identification of
72 expenditures for:
73 (i) financing tourism promotion, which means an activity to develop, encourage,
74 solicit, or market tourism that attracts transient guests to the county, including planning,
75 product development, and advertising;
76 (ii) the development, operation, and maintenance of the following facilities as defined
77 in Section 59-12-602:
78 (A) tourist facilities;
79 (B) recreation facilities;
80 (C) cultural facilities; and
81 (D) convention facilities; and
82 (iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(4).
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 **17-31-8** is amended to read:

89 **17-31-8. Tourism tax advisory boards.**

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

92 (i) the tax allowed under Section 59-12-301; or

93 (ii) the tax allowed under Section 59-12-603.

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

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

99 (3) A tourism tax advisory board shall be composed of [~~any of~~] the following members
100 that[~~:(a)~~] are residents of the county[~~; and~~]:

101 [~~(b) represent the local;~~]

102 [~~(i) hotel and lodging industry;~~]

103 [~~(ii) restaurant industry;~~]

104 [~~(iii) recreational facilities;~~]

105 [~~(iv) convention facilities;~~]

106 [~~(v) museums;~~]

107 [~~(vi) cultural attractions; or~~]

108 [~~(vii) other tourism-related industries.~~]

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

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

114 (4) (a) Each tourism tax advisory board shall advise the county legislative body on the
115 best use of revenues collected from the tax allowed under Section 59-12-301[:] by providing
116 the legislative body with a priority listing for proposed expenditures based on projected
117 available tax revenues supplied to the board by the county legislative body on an annual basis.

118 (b) Each tourism tax advisory board in a county operating under the county
119 commission form of government under Section 17-52-501 or the expanded county commission
120 form under Section 17-52-502 shall advise the county legislative body on the best use of
121 revenues collected from the tax allowed under Section 59-12-603[:] by providing the legislative
122 body with a priority listing for proposed expenditures based on projected available tax revenues
123 supplied to the board by the county legislative body on an annual basis.

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

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

126 (b) may receive per diem and expenses incurred in the performance of the member's
127 official duties.

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

129 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --**
130 **Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal**
131 **of tax or tax rate change -- Effective date -- Notice requirements.**

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

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

139 [~~(i)~~] (B) beginning on or after January 1, 1999, a county legislative body of any county
140 imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under
141 Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals

142 of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made
143 for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant
144 to a repair or an insurance agreement;

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

147 ~~[(c)]~~ (iii) a county legislative body of any county may impose a tax of not to exceed
148 .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

149 (b) A tax imposed under Subsection (1)(a) is in addition to the transient room tax
150 authorized under Part 3, Transient Room Tax, and is subject to the audit provisions of Section
151 17-31-5.5.

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

- 154 (i) financing tourism promotion; and
- 155 (ii) the development, operation, and maintenance of tourist, recreation, cultural, and
156 convention facilities as defined in Section 59-12-602.

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

- 160 (i) promote tourism in ski areas within the county by persons that do not reside within
161 the state; and
- 162 (ii) combine the sale of:
 - 163 (A) ski lift tickets; and
 - 164 (B) accommodations and services described in Subsection 59-12-103(1)(i).

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

168 (4) A tax imposed under this part may be pledged as security for bonds, notes, or other
169 evidences of indebtedness incurred by a county under Title 11, Chapter 14, Local Government

170 Bonding Act, to finance tourism, recreation, cultural, and convention facilities.

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

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

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

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

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

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

186 (I) Part 1, Tax Collection; or

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

188 (B) Chapter 1, General Taxation Policies.

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

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

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

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

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

194 (i) for a tax under this part other than the tax under Subsection (1)(a)~~(ii)~~(i)(B), the
195 commission shall distribute the revenues to the county imposing the tax; and

196 (ii) for a tax under Subsection (1)(a)~~(ii)~~(i)(B), the commission shall distribute the
197 revenues according to the distribution formula provided in Subsection (8).

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

201 (8) The commission shall distribute the revenues generated by the tax under Subsection
202 (1)(a)~~(f)(i)(B)~~ to each county collecting a tax under Subsection (1)(a)~~(f)(i)(B)~~ according to
203 the following formula:

204 (a) the commission shall distribute 70% of the revenues based on the percentages
205 generated by dividing the revenues collected by each county under Subsection (1)(a)~~(f)(i)(B)~~
206 by the total revenues collected by all counties under Subsection (1)(a)~~(f)(i)(B)~~; and

207 (b) the commission shall distribute 30% of the revenues based on the percentages
208 generated by dividing the population of each county collecting a tax under Subsection
209 (1)(a)~~(f)(i)(B)~~ by the total population of all counties collecting a tax under Subsection
210 (1)(a)~~(f)(i)(B)~~.

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

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

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

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

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

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

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

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

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

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

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

226 (9)(b)(ii)(A), the rate of the tax.

227 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection

228 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the

229 first billing period:

230 (A) that begins after the effective date of the enactment of the tax or the tax rate

231 increase; and

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

233 enactment of the tax or the tax rate increase imposed under Subsection (1).

234 (ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection

235 (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

236 billing period:

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

238 and

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

240 of the tax or the tax rate decrease imposed under Subsection ~~[(+)]~~(9)(b)(i).

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

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

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

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

245 (d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or

246 after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a

247 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

249 (B) after a 90-day period beginning on the date the commission receives notice meeting

250 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

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

252 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,

253 repeal, or change in the rate of a tax under this part for the annexing area;

254 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
255 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
256 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
257 (9)(d)(ii)(A), the rate of the tax.

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

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

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

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

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

270 (B) if the billing period for the transaction begins before the effective date of the repeal
271 of the tax or the tax rate decrease imposed under Subsection [~~(1)~~] (9)(b)(i).

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

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

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

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