

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
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	



13
 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 ▶ provides that the report on the use of transient room tax funds and tourism,
 23 recreation, cultural, and convention facilities tax funds shall include a breakdown of
 24 expenditures of the tax funds into designated categories;

25 ▶ provides that a copy of the report shall be forwarded to the Governor's Office of
 26 Economic Development, the county's tourism tax advisory board, and the Office of
 27 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

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.
85 Section 2. 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 ~~[(ii)]~~ (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

12-22-05 9:34 AM

H.B. 40

as of 12-22-05 9:34 AM

The Tourism Task Force recommended this bill.