

Representative Merlynn T. Newbold proposes the following substitute bill:

**AMENDMENTS TO LOCAL OPTION SALES AND USE TAXES ON
CERTAIN ACCOMMODATIONS AND SERVICES**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merlynn T. Newbold

Senate Sponsor: Sheldon L. Killpack

LONG TITLE

General Description:

This bill amends the Recreational, Tourist and Convention Bureaus chapter, the Transient Room Tax part, the Tourism, Recreation, Cultural, and Convention Facilities Tax part, and the Governor's Office of Economic Development chapter to address the imposition of a tax on certain accommodations and services and the expenditure of revenues collected from a tax on certain accommodations and services.

Highlighted Provisions:

This bill:

- ▶ addresses the expenditure of certain revenues collected from a local option sales and use tax on certain accommodations and services under the Transient Room Tax part by requiring a percentage of those revenues to be deposited into the Transient Room Tax Fund;
- ▶ clarifies that only a county of the first class may impose a tax:
 - on certain accommodations and services; and
 - under the Tourism, Recreation, Cultural, and Convention Facilities Tax part;
- ▶ creates the Transient Room Tax Fund; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **17-31-5.5**, as last amended by Chapter 134, Laws of Utah 2006

33 **59-12-301**, as last amended by Chapter 328, Laws of Utah 2006

34 **59-12-603**, as last amended by Chapters 134 and 253, Laws of Utah 2006

35 ENACTS:

36 **63-38f-2201**, Utah Code Annotated 1953

37 **63-38f-2202**, Utah Code Annotated 1953

38 **63-38f-2203**, Utah Code Annotated 1953



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

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

42 **17-31-5.5. Independent audit -- Report to county legislative body -- Content.**

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

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

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

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

53 (i) establishing and promoting:

54 (A) recreation;

55 (B) tourism;

56 (C) film production; and

57 (D) conventions;

58 (ii) acquiring, leasing, constructing, furnishing, or operating:
59 (A) convention meeting rooms;
60 (B) exhibit halls;
61 (C) visitor information centers;
62 (D) museums; and
63 (E) related facilities;
64 (iii) acquiring or leasing land required for or related to the purposes listed in
65 Subsection (3)(a)(ii);
66 (iv) mitigation costs as identified in Subsection 17-31-2(1)(d); and
67 (v) making the annual payment of principal, interest, premiums, and necessary reserves
68 for any or the aggregate of bonds issued to pay for costs referred to in Subsections
69 17-31-2(2)(c) and (3)(a); and
70 (b) for the tourism, recreation, cultural, and convention facilities tax, identification of
71 expenditures for:
72 (i) financing tourism promotion, which means an activity to develop, encourage,
73 solicit, or market tourism that attracts transient guests to the county, including planning,
74 product development, and advertising;
75 (ii) the development, operation, and maintenance of the following facilities as defined
76 in Section 59-12-602:
77 (A) tourist facilities;
78 (B) recreation facilities;
79 (C) cultural facilities; and
80 (D) convention facilities; and
81 (iii) a pledge as security for evidences of indebtedness under Subsection
82 59-12-603[~~(4)~~] (3).
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 **59-12-301** is amended to read:

89 **59-12-301. Transient room tax -- Rate -- Enactment or repeal of tax -- Tax rate**
 90 **change -- Effective date -- Notice requirements.**

91 (1) (a) [~~Any~~] A county legislative body may impose a tax on charges for the
 92 accommodations and services described in Subsection 59-12-103(1)(i) at a rate of not to
 93 exceed[~~:(i) 3% beginning on or after May 13, 1975, and ending on September 30, 2006; or~~
 94 ~~(ii)] 4.25% beginning on or after October 1, 2006.~~

95 (b) [~~The~~] Subject to Subsection (2), the revenues raised from the tax imposed under
 96 Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

97 (c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed
 98 under Part 6, Tourism, Recreation, Cultural, and Convention Facilities Tax.

99 (2) If a county legislative body of a county of the first class imposes a tax under this
 100 section, beginning on July 1, 2007, and ending on June 30, \$→ [2017] 2027 ←\$, each year the first
 101 15% of the
 102 revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:

103 (a) deposited into the Transient Room Tax Fund created by Section 63-38f-2203; and

104 (b) expended as provided in Section 63-38f-2203.

105 ~~(2)~~ (3) Subject to Subsection ~~(4)~~ (4), a county legislative body:

106 (a) may increase or decrease the tax authorized under this part; and

107 (b) shall regulate the tax authorized under this part by ordinance.

108 ~~(3)~~ (4) (a) For purposes of this Subsection ~~(4)~~ (4):

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

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

112 (b) (i) Except as provided in Subsection ~~(4)~~ (4)(c), if, on or after July 1, 2004, a
 113 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
 114 or change shall take effect:

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

116 (B) after a 90-day period beginning on the date the commission receives notice meeting
 117 the requirements of Subsection ~~(4)~~ (4)(b)(ii) from the county.

118 (ii) The notice described in Subsection ~~(4)~~ (4)(b)(i)(B) shall state:

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

 (B) the statutory authority for the tax described in Subsection ~~(4)~~ (4)(b)(ii)(A);

120 (C) the effective date of the tax described in Subsection [~~(3)~~] (4)(b)(ii)(A); and

121 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
122 [~~(3)~~] (4)(b)(ii)(A), the rate of the tax.

123 (c) (i) Notwithstanding Subsection [~~(3)~~] (4)(b)(i), for a transaction described in
124 Subsection [~~(3)~~] (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the
125 first day of the first billing period:

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

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

130 (ii) Notwithstanding Subsection [~~(3)~~] (4)(b)(i), for a transaction described in
131 Subsection [~~(3)~~] (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first
132 day of the last billing period:

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

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

137 (iii) Subsections [~~(3)~~] (4)(c)(i) and (ii) apply to transactions subject to a tax under
138 Subsection 59-12-103(1)(i).

139 (d) (i) Except as provided in Subsection [~~(3)~~] (4)(e), if, for an annexation that occurs
140 on or after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the
141 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
142 effect:

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

144 (B) after a 90-day period beginning on the date the commission receives notice meeting
145 the requirements of Subsection [~~(3)~~] (4)(d)(ii) from the county that annexes the annexing area.

146 (ii) The notice described in Subsection [~~(3)~~] (4)(d)(i)(B) shall state:

147 (A) that the annexation described in Subsection [~~(3)~~] (4)(d)(i) will result in an
148 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

149 (B) the statutory authority for the tax described in Subsection [~~(3)~~] (4)(d)(ii)(A);

150 (C) the effective date of the tax described in Subsection [~~(3)~~](4)(d)(ii)(A); and

151 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
152 [~~(3)~~](4)(d)(ii)(A), the rate of the tax.

153 (e) (i) Notwithstanding Subsection [~~(3)~~](4)(d)(i), for a transaction described in
154 Subsection [~~(3)~~](4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the
155 first day of the first billing period:

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

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

160 (ii) Notwithstanding Subsection [~~(3)~~](4)(d)(i), for a transaction described in Subsection
161 [~~(3)~~](4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the
162 last billing period:

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

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

167 (iii) Subsections [~~(3)~~](4)(e)(i) and (ii) apply to transactions subject to a tax under
168 Subsection 59-12-103(1)(i).

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

170 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --**
171 **Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal**
172 **of tax or tax rate change -- Effective date -- Notice requirements.**

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

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

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

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

185 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all
186 sales of prepared foods and beverages that are sold by restaurants; and

187 (iii) a county legislative body of ~~[any]~~ a county of the first class may impose a tax of
188 not to exceed .5% on charges for the accommodations and services described in Subsection
189 59-12-103(1)(i).

190 (b) A tax imposed under Subsection (1)(a) ~~[is in addition to the transient room tax~~
191 ~~authorized under Part 3, Transient Room Tax, and]~~ is subject to the audit provisions of Section
192 17-31-5.5.

193 (2) (a) Subject to Subsection (2)(b), revenue from the imposition of the taxes provided
194 for in Subsections (1)(a)(i) through (iii) may be used for the purposes of:

195 (i) financing tourism promotion; and

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

198 (b) A county of the first class shall expend at least \$450,000 each year of the revenues
199 from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a
200 marketing and ticketing system designed to:

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

203 (ii) combine the sale of:

204 (A) ski lift tickets; and

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

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

209 ~~[(4)]~~ (3) A tax imposed under this part may be pledged as security for bonds, notes, or
210 other evidences of indebtedness incurred by a county under Title 11, Chapter 14, Local
211 Government Bonding Act, to finance tourism, recreation, cultural, and convention facilities.

212 ~~[(5)]~~ (4) (a) In order to impose the tax under Subsection (1), each county legislative

213 body shall annually adopt an ordinance imposing the tax.

214 (b) The ordinance under Subsection ~~[(5)]~~ (4)(a) shall include provisions substantially
215 the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only
216 on those items and sales described in Subsection (1).

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

220 ~~[(6)]~~ (5) In order to maintain in effect its tax ordinance adopted under this part, each
221 county legislative body shall, within 30 days of any amendment of any applicable provisions of
222 Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
223 amendments to Part 1, Tax Collection.

224 ~~[(7)]~~ (6) (a) (i) Except as provided in Subsection ~~[(7)]~~ (6)(a)(ii), a tax authorized under
225 this part shall be administered, collected, and enforced in accordance with:

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

227 (I) Part 1, Tax Collection; or

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

229 (B) Chapter 1, General Taxation Policies.

230 (ii) A tax under this part is not subject to Section 59-12-107.1 or Subsections
231 59-12-205(2) through (7).

232 (b) Except as provided in Subsection ~~[(7)]~~ (6)(c):

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

235 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues
236 according to the distribution formula provided in Subsection ~~[(8)]~~ (7).

237 (c) ~~[Notwithstanding Subsection (7)(b), the]~~ The commission shall deduct from the
238 distributions under Subsection ~~[(7)]~~ (6)(b) an administrative charge for collecting the tax as
239 provided in Section 59-12-206.

240 ~~[(8)]~~ (7) The commission shall distribute the revenues generated by the tax under
241 Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according
242 to the following formula:

243 (a) the commission shall distribute 70% of the revenues based on the percentages

244 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
245 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

246 (b) the commission shall distribute 30% of the revenues based on the percentages
247 generated by dividing the population of each county collecting a tax under Subsection
248 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

249 ~~(9)~~ (8) (a) For purposes of this Subsection ~~(9)~~ (8):

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

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

253 (b) (i) Except as provided in Subsection ~~(9)~~ (8)(c), if, on or after July 1, 2004, a
254 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
255 or change shall take effect:

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

257 (B) after a 90-day period beginning on the date the commission receives notice meeting
258 the requirements of Subsection ~~(9)~~ (8)(b)(ii) from the county.

259 (ii) The notice described in Subsection ~~(9)~~ (8)(b)(i)(B) shall state:

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

261 (B) the statutory authority for the tax described in Subsection ~~(9)~~ (8)(b)(ii)(A);

262 (C) the effective date of the tax described in Subsection ~~(9)~~ (8)(b)(ii)(A); and

263 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
264 ~~(9)~~ (8)(b)(ii)(A), the rate of the tax.

265 (c) (i) Notwithstanding Subsection ~~(9)~~ (8)(b)(i), for a transaction described in
266 Subsection ~~(9)~~ (8)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the
267 first day of the first billing period:

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

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

272 (ii) Notwithstanding Subsection ~~(9)~~ (8)(b)(i), for a transaction described in
273 Subsection ~~(9)~~ (8)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first
274 day of the last billing period:

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

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

279 (iii) Subsections [~~9~~] (8)(c)(i) and (ii) apply to transactions subject to a tax under:

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

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

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

283 (d) (i) Except as provided in Subsection [~~9~~] (8)(e), if, for an annexation that occurs
284 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
285 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
286 effect:

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

288 (B) after a 90-day period beginning on the date the commission receives notice meeting
289 the requirements of Subsection [~~9~~] (8)(d)(ii) from the county that annexes the annexing area.

290 (ii) The notice described in Subsection [~~9~~] (8)(d)(i)(B) shall state:

291 (A) that the annexation described in Subsection [~~9~~] (8)(d)(i) will result in an
292 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

293 (B) the statutory authority for the tax described in Subsection [~~9~~] (8)(d)(ii)(A);

294 (C) the effective date of the tax described in Subsection [~~9~~] (8)(d)(ii)(A); and

295 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
296 [~~9~~] (8)(d)(ii)(A), the rate of the tax.

297 (e) (i) Notwithstanding Subsection [~~9~~] (8)(d)(i), for a transaction described in
298 Subsection [~~9~~] (8)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the
299 first day of the first billing period:

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

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

304 (ii) Notwithstanding Subsection [~~9~~] (8)(d)(i), for a transaction described in
305 Subsection [~~9~~] (8)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first

306 day of the last billing period:

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

308 and

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

311 (iii) Subsections [~~(9)~~] (8)(e)(i) and (ii) apply to transactions subject to a tax under:

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

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

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

315 Section 4. Section **63-38f-2201** is enacted to read:

316 **Part 22. Transient Room Tax Fund Act**

317 **63-38f-2201. Title.**

318 This part is known as the "Transient Room Tax Fund Act."

319 Section 5. Section **63-38f-2202** is enacted to read:

320 **63-38f-2202. Definitions.**

321 As used in this part, "fund" means the Transient Room Tax Fund created by Section
322 63-38f-2203.

323 Section 6. Section **63-38f-2203** is enacted to read:

324 **63-38f-2203. Transient Room Tax Fund -- Source of revenues -- Interest --**

325 **Expenditure of revenues.**

326 (1) There is created a restricted special revenue fund known as the Transient Room Tax
327 Fund.

328 (2) (a) The fund shall be funded by the portion of the sales and use tax described in
329 Subsection 59-12-301(2).

330 (b) (i) The fund shall earn interest.

331 (ii) Any interest earned on fund monies shall be deposited into the fund.

332 (3) ~~H~~→ (a) [~~The~~] Subject to Subsection (3)(b), the ~~←H~~ director shall expend ~~S~~→ or
332a pledge ~~←S~~ the monies
332a deposited into the fund:

333 ~~H~~→ [(~~a~~)] (i) ~~←H~~ to mitigate the impacts of traffic and parking relating to a convention
333a facility within
334 a county of the first class;

335 ~~H~~→ [(~~b~~)] (ii) ~~←H~~ for a purpose listed in Section 17-31-2, except that any requirements
335a in Section
336 17-31-2 for the expenditure of monies do not apply; or

337 ~~H~~→ ~~(c)~~ (iii) ←~~H~~ for a combination of Subsections (3)(a) ~~H~~→ (i) ←~~H~~ and
337a ~~H~~→ ~~(b)~~ (ii) ←~~H~~ .
337b ~~H~~→ (b) The director may not expend more than \$20,000,000 in total to mitigate the
337c impacts of traffic and parking relating to a convention facility within a county of the
337d first class. ←~~H~~

Fiscal Note**H.B. 38 1st Sub. (Buff) - Amendments to Local Option Sales and Use Taxes
on Certain Accommodations and Services**

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill could result in a shift in revenue between categories of expenditure in a county of the first class of approximately \$2,250,000 annually. Enactment will likely not result in direct, measurable costs and/or benefits for individuals or businesses.
