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 or pledging of revenues collected from a tax on certain accommodations and services.

Highlighted Provisions:
This bill:
- addresses the expenditure or pledging 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:
None

Other Special Clauses:
None
Utah Code Sections Affected:

AMENDS:

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

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

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

ENACTS:

63-38f-2201, Utah Code Annotated 1953

63-38f-2202, Utah Code Annotated 1953

63-38f-2203, Utah Code Annotated 1953

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

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

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

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

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

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

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

(i) establishing and promoting:

(A) recreation;

(B) tourism;

(C) film production; and

(D) conventions;
(ii) acquiring, leasing, constructing, furnishing, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums; and

(E) related facilities;

(iii) acquiring or leasing land required for or related to the purposes listed in Subsection (3)(a)(ii);

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

(v) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2(2)(c) and (3)(a); and

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

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

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

(A) tourist facilities;

(B) recreation facilities;

(C) cultural facilities; and

(D) convention facilities; and

(iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603[(4) (3)].

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

(a) the Governor's Office of Economic Development;
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Section 2. Section 59-12-301 is amended to read:

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

(1) (a) A county legislative body may impose a tax on charges for the accommodations and services described in Subsection 59-12-103(1)(i) at a rate of not to exceed:
   (i) 3% beginning on or after May 13, 1975, and ending on September 30, 2006; or
   (ii) 4.25% beginning on or after October 1, 2006.
(b) Subject to Subsection (2), the revenues raised from the tax imposed under Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.
(c) The tax imposed under Subsection (1)(a) shall be in addition to the tax imposed under Part 6, Tourism, Recreation, Cultural, and Convention Facilities Tax.

(2) If a county legislative body of a county of the first class imposes a tax under this section, beginning on July 1, 2007, and ending on June 30, 2027, each year the first 15% of the revenues collected from the tax authorized by Subsection (1)(a) within that county shall be:
   (a) deposited into the Transient Room Tax Fund created by Section 63-38f-2203; and
   (b) expended as provided in Section 63-38f-2203.

(3) Subject to Subsection (4), a county legislative body:
   (a) may increase or decrease the tax authorized under this part; and
   (b) shall regulate the tax authorized under this part by ordinance.

(4) (a) For purposes of this Subsection:

   (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.
   (ii) "Annexing area" means an area that is annexed into a county.
   (b) (i) Except as provided in Subsection (4)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
(A) on the first day of a calendar quarter; and
(B) after a 90-day period beginning on the date the commission receives notice meeting
the requirements of Subsection [(3)] (4)(b)(ii) from the county.

(ii) The notice described in Subsection [(3)] (4)(b)(i)(B) shall state:
(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 [(3)] (4)(b)(ii)(A);
(C) the effective date of the tax described in Subsection [(3)] (4)(b)(ii)(A); and
(D) if the county enacts the tax or changes the rate of the tax described in Subsection [(3)] (4)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection [(3)] (4)(b)(i), for a transaction described in
Subsection [(3)] (4)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the
first day of the first billing period:
(A) that begins after the effective date of the enactment of the tax or the tax rate
increase; and
(B) if the billing period for the transaction begins before the effective date of the
enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection [(3)] (4)(b)(i), for a transaction described in
Subsection [(3)] (4)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first
day of the last billing period:
(A) that began before the effective date of the repeal of the tax or the tax rate decrease;
and
(B) if the billing period for the transaction begins before the effective date of the repeal
of the tax or the tax rate decrease imposed under this section.

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

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

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

(B) after a 90-day period beginning on the date the commission receives notice meeting
the requirements of Subsection [(3) (4)(d)(ii) from the county that annexes the annexing area.
(ii) The notice described in Subsection [(3) (4)(d)(i)(B) shall state:
(A) that the annexation described in Subsection [(3) (4)(d)(i) will result in an
enactment, repeal, or change in the rate of a tax under this part for the annexing area;
(B) the statutory authority for the tax described in Subsection [(3) (4)(d)(ii)(A);
(C) the effective date of the tax described in Subsection [(3) (4)(d)(ii)(A); and
(D) if the county enacts the tax or changes the rate of the tax described in Subsection
[(3)(4)(d)(ii)(A), the rate of the tax.
(e) (i) Notwithstanding Subsection [(3) (4)(d)(i), for a transaction described in
Subsection [(3)(4)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the
first day of the first billing period:
(A) that begins after the effective date of the enactment of the tax or the tax rate
increase; and
(B) if the billing period for the transaction begins before the effective date of the
enactment of the tax or the tax rate increase imposed under this section.
(ii) Notwithstanding Subsection [(3)(4)(d)(i), for a transaction described in Subsection
[(3)(4)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the
last billing period:
(A) that began before the effective date of the repeal of the tax or the tax rate decrease;
and
(B) if the billing period for the transaction begins before the effective date of the repeal
of the tax or the tax rate decrease imposed under this section.
(iii) Subsections [(3)(4)(e)(i) and (ii) apply to transactions subject to a tax under
Subsection 59-12-103(1)(i).
Section 3. Section 59-12-603 is amended to read:
59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --

Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

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

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

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

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

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

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

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

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of tourist, recreation, cultural, and convention facilities as defined in Section 59-12-602.
(b) A county of the first class shall expend at least $450,000 each year of the revenues from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to fund a marketing and ticketing system designed to:

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

(ii) combine the sale of:

(A) ski lift tickets; and

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

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

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

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

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

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

(6) (a) (i) Except as provided in Subsection (5)(a)(ii), a tax authorized under 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 59-12-205(2) through (7).
231 (b) Except as provided in Subsection [(7) (6)(c):
232 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
233 commission shall distribute the revenues to the county imposing the tax; and
234 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues
235 according to the distribution formula provided in Subsection [(6)(c):]
236 (c) [(7)(b), the] The commission shall deduct from the
237 distributions under Subsection [(7)(6)(b) an administrative charge for collecting the tax as
238 provided in Section 59-12-206.
239 [(7) The commission shall distribute the revenues generated by the tax under
240 Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according
241 to the following formula:
242 (a) the commission shall distribute 70% of the revenues based on the percentages
243 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
244 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and
245 (b) the commission shall distribute 30% of the revenues based on the percentages
246 generated by dividing the population of each county collecting a tax under Subsection
247 (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).
248 [(8)(a) For purposes of this Subsection [(8):
249 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2,
250 Annexation to County.
251 (ii) "Annexing area" means an area that is annexed into a county.
252 (b) (i) Except as provided in Subsection [(8)(c), if, on or after July 1, 2004, a
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254 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
255 (A) on the first day of a calendar quarter; and
256 (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection [§] (8)(b)(ii) from the county.
259 (ii) The notice described in Subsection [§] (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 [§] (8)(b)(ii)(A);
262 (C) the effective date of the tax described in Subsection [§] (8)(b)(ii)(A); and
263 (D) if the county enacts the tax or changes the rate of the tax described in Subsection [§] (8)(b)(ii)(A), the rate of the tax.
265 (c) (i) Notwithstanding Subsection [§] (8)(b)(i), for a transaction described in Subsection [§] (8)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the 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 increase; and
270 (B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).
272 (ii) Notwithstanding Subsection [§] (8)(b)(i), for a transaction described in Subsection [§] (8)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first 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; and
277 (B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).
279 (iii) Subsections [§] (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
(C) Subsection 59-12-103(1)(k).

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

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

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

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

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

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

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

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

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

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

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

(ii) Notwithstanding Subsection [(9)(8)(d)(i), for a transaction described in Subsection [(9)(8)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

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

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

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

(A) Subsection 59-12-103(1)(e);
(B) Subsection 59-12-103(1)(i); or
(C) Subsection 59-12-103(1)(k).

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

Part 22. Transient Room Tax Fund Act

63-38f-2201. Title.
This part is known as the "Transient Room Tax Fund Act."

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

63-38f-2202. Definitions.
As used in this part, "fund" means the Transient Room Tax Fund created by Section 63-38f-2203.

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

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

Expenditure or pledge of revenues.

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

(2) (a) The fund shall be funded by the portion of the sales and use tax described in Subsection 59-12-301(2).
(b) (i) The fund shall earn interest.
(ii) Any interest earned on fund monies shall be deposited into the fund.

(3) (a) Subject to Subsection (3)(b), the director shall expend or pledge the monies deposited into the fund:
(i) to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class;
(ii) for a purpose listed in Section 17-31-2, except that any requirements in Section 17-31-2 for the expenditure of monies do not apply; or
(iii) for a combination of Subsections (3)(a)(i) and (ii).

(b) The director may not expend more than $20,000,000 in total to mitigate the impacts of traffic and parking relating to a convention facility within a county of the first class.