

1 **TOURISM, RECREATION, CULTURAL, AND**
2 **CONVENTION FACILITIES TAX - IMPOSITION,**
3 **DISTRIBUTION, AND EXPENDITURE OF REVENUES**

4 2007 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Michael G. Waddoups**

7 House Sponsor: _____

8
9 **LONG TITLE**

10 **General Description:**

11 This bill amends the Tourism, Recreation, Cultural, and Convention Facilities Tax part
12 to address the imposition of the tax and the distribution and expenditure of revenues
13 collected from the tax.

14 **Highlighted Provisions:**

15 This bill:

- 16 ▶ defines terms;
- 17 ▶ clarifies that only a county of the first class may impose a tax:
 - 18 • on certain accommodations and services; and
 - 19 • under the Tourism, Recreation, Cultural, and Convention Facilities Tax part;
- 20 ▶ requires a county legislative body **Ŝ→ of a county of the first class ←Ŝ** that imposes a
20a tax on prepared foods and
21 beverages to distribute each calendar year at least \$250,000 of the revenues from the
22 imposition of that tax within the county to a nonprofit organization having as its
23 primary purpose to represent the restaurant industry on a statewide basis;
 - 24 ▶ requires an organization that receives a distribution of revenues to expend those
25 revenues for tourism promotion in the state by promoting the restaurant industry on
26 a statewide basis;
 - 27 ▶ limits the ability of a county of the first class that imposes a tax on prepared foods



28 and beverages to expend revenues collected from that tax for certain purposes;

29 ▶ requires ~~§~~→ **certain** ←~~§~~ revenues collected from a tax on prepared foods and beverages
29a imposed by

30 a county of the first class to be distributed to that county on the basis of the location
31 of the transaction and population;

32 ▶ addresses the determination of population; and

33 ▶ makes technical changes.

34 **Monies Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **17-31-5.5**, as last amended by Chapter 134, Laws of Utah 2006

41 **59-12-602**, as last amended by Chapter 248, Laws of Utah 1995

42 **59-12-603**, as last amended by Chapters 134 and 253, Laws of Utah 2006



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

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

46 **17-31-5.5. Independent audit -- Report to county legislative body -- Content.**

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

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

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

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

57 (i) establishing and promoting:

58 (A) recreation;

- 59 (B) tourism;
- 60 (C) film production; and
- 61 (D) conventions;
- 62 (ii) acquiring, leasing, constructing, furnishing, or operating:
- 63 (A) convention meeting rooms;
- 64 (B) exhibit halls;
- 65 (C) visitor information centers;
- 66 (D) museums; and
- 67 (E) related facilities;
- 68 (iii) acquiring or leasing land required for or related to the purposes listed in
- 69 Subsection (3)(a)(ii);
- 70 (iv) mitigation costs as identified in Subsection 17-31-2(1)(d); and
- 71 (v) making the annual payment of principal, interest, premiums, and necessary reserves
- 72 for any or the aggregate of bonds issued to pay for costs referred to in Subsections
- 73 17-31-2(2)(c) and (3)(a); and
- 74 (b) for the tourism, recreation, cultural, and convention facilities tax, identification of
- 75 expenditures for:
- 76 (i) financing tourism promotion~~[, which means an activity to develop, encourage,~~
- 77 ~~solicit, or market tourism that attracts transient guests to the county, including planning,~~
- 78 ~~product development, and advertising]~~ as defined in Section 59-12-602;
- 79 (ii) the development, operation, and maintenance of the following facilities as defined
- 80 in Section 59-12-602:
- 81 (A) tourist facilities;
- 82 (B) recreation facilities;
- 83 (C) cultural facilities; and
- 84 (D) convention facilities; and
- 85 (iii) a pledge as security for evidences of indebtedness under Subsection
- 86 59-12-603~~(4)~~(3).
- 87 (4) A county legislative body shall provide a copy of a report it receives under this
- 88 section to:
- 89 (a) the Governor's Office of Economic Development;

- 90 (b) its tourism tax advisory board; and
 - 91 (c) the Office of the Legislative Fiscal Analyst.
- 92 Section 2. Section **59-12-602** is amended to read:

93 **59-12-602. Definitions.**

94 As used in this part:

95 (1) "Convention facility" means any publicly owned or operated convention center,
96 sports arena, or other facility at which conventions, conferences, and other gatherings are held
97 and whose primary business or function is to host such conventions, conferences, and other
98 gatherings.

99 (2) "Cultural facility" means any publicly owned or operated museum, theater, art
100 center, music hall, or other cultural or arts facility.

101 (3) "Qualifying bonded indebtedness payment" means debt service a county of the first
102 class is required to pay from revenues collected from the tax under Subsection
103 59-12-603(1)(a)(ii) on a bond, note, or other evidence of indebtedness issued on or before April
104 29, 2007, if:

105 (a) the face value of the bond, note, or other evidence of indebtedness is not increased;

106 (b) the term for repayment of the bond, note, or other evidence of indebtedness is not
107 extended;

108 (c) the bond, note, or other evidence of indebtedness is not retired; or

109 (d) the bond, note, or other evidence of indebtedness is not substantially modified in a
110 manner other than as described in Subsections (3)(a) through (c).

111 (4) "Qualifying interlocal agreement payment" means a payment a county of the first
112 class is required to make from revenues collected from the tax under Subsection
113 59-12-603(1)(a)(ii) as provided in an interlocal agreement entered into in accordance with Title
114 11, Chapter 13, Interlocal Cooperation Act, on or before April 29, 2007, if:

115 (a) the payment the county is required to make as provided in the interlocal agreement
116 is not increased;

117 (b) the length of the interlocal agreement is not extended;

118 (c) the interlocal agreement is not terminated; or

119 (d) the interlocal agreement is not substantially modified in a manner other than as
120 described in Subsections (4)(a) through (c).

121 (5) "Qualifying maintenance and operating payment" means a payment a county of the
122 first class makes from revenues collected from the tax under Subsection 59-12-603(1)(a)(ii) to
123 contribute toward the maintenance and operation of one or more tourist, recreation, cultural, or
124 convention facilities constructed by that county on or before April 29, 2007, in an amount that
125 does not exceed the lesser of:

126 (a) \$2,750,000 in any calendar year beginning with the calendar year beginning on
127 January 1, 2007; or

128 (b) the actual maintenance and operating costs of the one or more tourist, recreation,
129 cultural, or convention facilities for which the payment is made.

130 (6) "Qualifying revenues" means, for a county of the first class, the difference between:

131 (a) the total amount of revenues collected from the tax under Subsection
132 59-12-603(1)(a)(ii) within the county of the first class after subtracting the administrative fee
133 allowed by Subsection 59-12-603(9)(b); and

134 (b) the sum of:

135 (i) the qualifying bonded indebtedness payments made by the county of the first class;

136 (ii) the qualifying interlocal agreement payments made by the county of the first class;

137 (iii) the qualifying maintenance and operation payments made by the county of the first
138 class; and

139 (iv) amounts distributed in accordance with Subsection 59-12-603(2)(b).

140 ~~[(3)]~~ (7) "Recreation facility" or "tourist facility" means any publicly owned or
141 operated park, campground, marina, dock, golf course, water park, historic park, monument,
142 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

143 ~~[(4)]~~ (8) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda
144 fountain, or fast-food service where food is prepared for immediate consumption.

145 (b) "Restaurant" does not include:

146 (i) any retail establishment whose primary business or function is the sale of fuel or
147 food items for off-premise, but not immediate, consumption; and

148 (ii) a theater that sells food items, but not a dinner theater.

149 (9) (a) "Tourism promotion" means to develop, market, promote, or solicit tourism.

150 (b) "Tourism promotion" includes:

151 (i) advertising;

- 152 (ii) planning;
 153 (iii) product development; or
 154 (iv) tourism promotion as described in Subsection 59-12-603(2)(b)(ii) or (2)(c).

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

156 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection --**
 157 **Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal**
 158 **of tax or tax rate change -- Effective date -- Notice requirements.**

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

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

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

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

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

176 (b) A tax imposed under Subsection (1)(a) [~~is in addition to the transient room tax~~
 177 ~~authorized under Part 3, Transient Room Tax, and]~~ is subject to the audit provisions of Section
 178 17-31-5.5.

179 (2) (a) Subject to [~~Subsection (2)(b)]~~ Subsections (2)(b) and (c) and except as provided
 180 in Subsections (3) through (5), revenue from the imposition of the taxes provided for in
 181 Subsections (1)(a)(i) through (iii) may be used for the purposes of:

- 182 (i) financing tourism promotion; and
 (ii) the development, operation, and maintenance of tourist, recreation, cultural, and

183 convention facilities as defined in Section 59-12-602.

184 (b) (i) A county legislative body ~~§~~ of a county of the first class ~~←~~ that imposes a tax
 184a authorized by Subsection (1)(a)(ii)

185 shall distribute each calendar year, beginning with the calendar year beginning on January 1,
 186 2008, at least \$250,000 of the revenues from the imposition of the tax authorized by Subsection
 187 (1)(a)(ii) within the county to an organization:

188 (A) exempt from federal income taxation under Section 501(c)(6), Internal Revenue
 189 Code; and

190 (B) that has as a primary purpose of the organization to promote the interests and the
 191 welfare of the restaurant industry on a statewide basis.

192 (ii) An organization described in Subsection (2)(b)(i) that receives a distribution of
 193 revenues under Subsection (2)(b)(i) shall expend those revenues for tourism promotion in the
 194 state by promoting the restaurant industry on a statewide basis.

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

198 (i) [promote] for tourism promotion in ski areas within the county by persons that do
 199 not reside within the state; and

200 (ii) to combine the sale of:

201 (A) ski lift tickets; and

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

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

206 ~~[(4) A]~~ (3) (a) Except as provided in Subsection (3)(b), revenues collected from a tax
 207 imposed under this part may be pledged as security for [bonds, notes] a bond, note, or other
 208 [evidences] evidence of indebtedness incurred by a county under Title 11, Chapter 14, Local
 209 Government Bonding Act, to finance tourism, recreation, cultural, and convention facilities.

210 (b) A county of the first class may not pledge revenues collected from a tax under
 211 Subsection (1)(a)(ii) as security for a bond, note, or other evidence of indebtedness if that bond,
 212 note, or other evidence of indebtedness is issued on or after April 30, 2007.

213 (4) A county of the first class may not enter into an interlocal agreement on or after

214 April 30, 2007, if that interlocal agreement requires that county to make any payments from
 215 revenues collected from a tax under Subsection (1)(a)(ii).

216 (5) A county of the first class may not make any payment from revenues collected from
 217 the tax under Subsection (1)(a)(ii) to contribute toward the maintenance and operation of a
 218 tourist, recreation, cultural, or convention facility constructed by that county on or before April
 219 29, 2007, other than a qualifying maintenance and operating payment.

220 ~~[(5)]~~ (6) (a) In order to impose the tax under Subsection (1), each county legislative
 221 body shall annually adopt an ordinance imposing the tax.

222 (b) The ordinance under Subsection ~~[(5)]~~ (6)(a) shall include provisions substantially
 223 the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only
 224 on those items and sales described in Subsection (1).

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

228 ~~[(6)]~~ (7) In order to maintain in effect its tax ordinance adopted under this part, each
 229 county legislative body shall, within 30 days of any amendment of any applicable provisions of
 230 Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
 231 amendments to Part 1, Tax Collection.

232 ~~[(7)]~~ (8) (a) ~~[(i)]~~ Except as provided in Subsection ~~[(7)(a)(ii)]~~ (8)(b), a tax authorized
 233 under this part shall be administered, collected, and enforced in accordance with:

234 ~~[(A)]~~ (i) the same procedures used to administer, collect, and enforce the tax under:

235 ~~[(i)]~~ (A) Part 1, Tax Collection; or

236 ~~[(ii)]~~ (B) Part 2, Local Sales and Use Tax Act; and

237 ~~[(B)]~~ (ii) Chapter 1, General Taxation Policies.

238 ~~[(i)]~~ (b) A tax under this part is not subject to Section 59-12-107.1 or Subsections
 239 59-12-205(2) through (7).

240 ~~[(b)]~~ (9) (a) Except as provided in Subsection ~~[(7)(c): (i) for a tax under this part other~~
 241 ~~than the tax under Subsection (1)(a)(i)(B);]~~ (9)(b) and except for the distributions required by
 242 Subsection (10) or (11), the commission shall distribute the revenues collected from a tax
 243 imposed under this part to the county imposing the tax~~;~~ and.

244 ~~[(i)]~~ for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the

245 ~~revenues according to the distribution formula provided in Subsection (8):]~~

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

249 (b) (i) The commission may retain an amount of tax collected under this part of not to
250 exceed the lesser of:

251 (A) 1.5%; or

252 (B) an amount equal to the cost to the commission of administering this part.

253 (ii) Any amount the commission retains under Subsection (9)(b)(i) shall be:

254 (A) placed in the Sales and Use Tax Administrative Fees Account; and

255 (B) used as provided in Subsection 59-12-206(2).

256 ~~[(8) (10) The commission shall distribute the revenues [generated by] collected from~~
257 ~~the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection~~
258 ~~(1)(a)(i)(B) [according to the following formula] as follows:~~

259 (a) the commission shall distribute 70% of the revenues based on the percentages
260 generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by
261 the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

262 (b) the commission shall distribute 30% of the revenues [based on the percentages
263 generated by dividing the population of] to each county collecting a tax under Subsection
264 (1)(a)(i)(B) [by] on the basis of the percentage that the population of each county collecting a
265 tax under Subsection (1)(a)(i)(B) bears to the total population of all counties collecting a tax
266 under Subsection (1)(a)(i)(B).

267 (11) The commission shall distribute qualifying revenues within each county of the
268 first class collecting a tax under Subsection (1)(a)(ii) as follows:

269 (a) the commission shall distribute 50% of the qualifying revenues to each city, town,
270 and unincorporated area of the county of the first class within which a tax is collected under
271 Subsection (1)(a)(ii) on the basis of the location where the transaction is consummated as
272 determined under Section 59-12-207; and

273 (b) the commission shall distribute 50% of the qualifying revenues to each city, town,
274 and unincorporated area of the county of the first class within which a tax under Subsection
275 (1)(a)(ii) is collected on the basis of the percentage that the population of each city, town, and

276 unincorporated area of the county of the first class within which a tax is collected under
277 Subsection (1)(a)(ii) bears to the total population of all of the cities, towns, and unincorporated
278 areas of the county of the first class within which a tax is collected under Subsection (1)(a)(ii).

279 (12) For purposes of Subsections (10) and (11):

280 (a) population figures shall be based on the most recent official census or census
281 estimate of the United States Census Bureau; and

282 (b) if a needed population estimate is not available from the United States Census
283 Bureau, population figures shall be derived from the estimate from the Utah Population
284 Estimates Committee created by executive order of the governor.

285 ~~[(9)]~~ (13) (a) For purposes of this Subsection ~~[(9)]~~ (13):

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

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

289 (b) (i) Except as provided in Subsection ~~[(9)]~~ (13)(c), if, on or after July 1, 2004, a
290 county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal,
291 or change shall take effect:

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

293 (B) after a 90-day period beginning on the date the commission receives notice meeting
294 the requirements of Subsection ~~[(9)]~~ (13)(b)(ii) from the county.

295 (ii) The notice described in Subsection ~~[(9)]~~ (13)(b)(i)(B) shall state:

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

297 (B) the statutory authority for the tax described in Subsection ~~[(9)]~~ (13)(b)(ii)(A);

298 (C) the effective date of the tax described in Subsection ~~[(9)]~~ (13)(b)(ii)(A); and

299 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
300 ~~[(9)]~~ (13)(b)(ii)(A), the rate of the tax.

301 (c) (i) Notwithstanding Subsection ~~[(9)]~~ (13)(b)(i), for a transaction described in
302 Subsection ~~[(9)]~~ (13)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the
303 first day of the first billing period~~[-(A)]~~ that begins after the effective date of the enactment of
304 the tax or the tax rate increase~~[-and-(B)]~~ if the billing period for the transaction begins before
305 the effective date of the enactment of the tax or the tax rate increase imposed under Subsection
306 (1).

307 (ii) Notwithstanding Subsection [~~(9)~~] (13)(b)(i), for a transaction described in
 308 Subsection [~~(9)~~] (13)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the
 309 first day of the last billing period[~~:(A)~~] that began before the effective date of the repeal of the
 310 tax or the tax rate decrease[~~;(B)~~] if the billing period for the transaction begins before the
 311 effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

312 (iii) Subsections [~~(9)~~] (13)(c)(i) and (ii) apply to transactions subject to a tax under:

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

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

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

316 (d) (i) Except as provided in Subsection [~~(9)~~] (13)(e), if, for an annexation that occurs
 317 on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the
 318 rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take
 319 effect:

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

321 (B) after a 90-day period beginning on the date the commission receives notice meeting
 322 the requirements of Subsection [~~(9)~~] (13)(d)(ii) from the county that annexes the annexing area.

323 (ii) The notice described in Subsection [~~(9)~~] (13)(d)(i)(B) shall state:

324 (A) that the annexation described in Subsection [~~(9)~~] (13)(d)(i) will result in an
 325 enactment, repeal, or change in the rate of a tax under this part for the annexing area;

326 (B) the statutory authority for the tax described in Subsection [~~(9)~~] (13)(d)(ii)(A);

327 (C) the effective date of the tax described in Subsection [~~(9)~~] (13)(d)(ii)(A); and

328 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
 329 [~~(9)~~] (13)(d)(ii)(A), the rate of the tax.

330 (e) (i) Notwithstanding Subsection [~~(9)~~] (13)(d)(i), for a transaction described in
 331 Subsection [~~(9)~~] (13)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the
 332 first day of the first billing period:

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

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

337 (ii) Notwithstanding Subsection [~~(9)~~] (13)(d)(i), for a transaction described in

338 Subsection [~~(9)~~] (13)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the
339 first day of the last billing period[~~-(A)~~] that began before the effective date of the repeal of the
340 tax or the tax rate decrease[~~-(B)~~] if the billing period for the transaction begins before the
341 effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

- 342 (iii) Subsections [~~(9)~~] (13)(e)(i) and (ii) apply to transactions subject to a tax under:
343 (A) Subsection 59-12-103(1)(e);
344 (B) Subsection 59-12-103(1)(i); or
345 (C) Subsection 59-12-103(1)(k).

Legislative Review Note
as of 1-22-07 2:33 PM

Office of Legislative Research and General Counsel

Fiscal Note

S.B. 64 - Tourism, Recreation, Cultural, and Convention Facilities Tax - Imposition, Distribution, and Expenditure of Revenues

2007 General Session

State of Utah

State Impact

The Tax Commission will require a one-time appropriation of \$250,000 in FY 2008 in order to implement the provisions of the bill in the time frame allowed. Funding will be used to reprogram components of the computer system.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>
General Fund, One-Time	\$0	\$250,000	\$0	\$0	\$0	\$0
Total	\$0	\$250,000	\$0	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill could shift approximately \$11,931,000 from the County to Cities. There is also an amount of \$250,000 which will be passed through to an organization which promotes the restaurant industry.