

1 **FUNDING RELATING TO AIRPORTS**

2 2008 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Sales and Use Tax Act relating to a local sales and use tax to fund
10 tourism, recreation, cultural, convention, and airport facilities.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ repeals a purpose statement;
- 14 ▶ provides a part title;
- 15 ▶ defines "airport facility";
- 16 ▶ provides that a county legislative body may expend the local sales and use tax
17 revenues for an airport facility in addition to other purposes allowed by statute; and
- 18 ▶ makes technical changes.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 None

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **59-12-602**, as last amended by Laws of Utah 1995, Chapter 248

26 **59-12-603**, as last amended by Laws of Utah 2007, Chapters 3, 9, and 219

27 ENACTS:



28 59-12-601.1, Utah Code Annotated 1953

29 REPEALS:

30 59-12-601, as last amended by Laws of Utah 1991, Chapter 265

31

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

33 Section 1. Section 59-12-601.1 is enacted to read:

34 **Part 6. Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act**

35 **59-12-601.1. Title.**

36 This part is known as the "Tourism, Recreation, Cultural, Convention, and Airport
37 Facilities Tax Act."

38 Section 2. Section 59-12-602 is amended to read:

39 **59-12-602. Definitions.**

40 As used in this part:

41 (1) (a) Subject to Subsection (1)(b), "airport facility" means an airport of regional
42 significance, as defined by the Transportation Commission by rule made in accordance with
43 Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

44 (b) "Airport facility" includes:

45 (i) an appurtenance to an airport, including a fixed guideway as defined in Section
46 59-12-1702 that provides transportation service to or from the airport;

47 (ii) a control tower, including a radar system;

48 (iii) a public area of an airport; or

49 (iv) a terminal facility.

50 [~~1~~] (2) "Convention facility" means any publicly owned or operated convention
51 center, sports arena, or other facility at which conventions, conferences, and other gatherings
52 are held and whose primary business or function is to host such conventions, conferences, and
53 other gatherings.

54 [~~2~~] (3) "Cultural facility" means any publicly owned or operated museum, theater, art
55 center, music hall, or other cultural or arts facility.

56 [~~3~~] (4) "Recreation facility" or "tourist facility" means any publicly owned or
57 operated park, campground, marina, dock, golf course, water park, historic park, monument,
58 planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

59 [~~(4)~~] (5) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda
60 fountain, or fast-food service where food is prepared for immediate consumption.

61 (b) "Restaurant" does not include:

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

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

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

66 **59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Adoption of**
67 **ordinance required -- Advisory board -- Administration -- Collection -- Distribution --**
68 **Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.**

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

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

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

81 (ii) a county legislative body of any county may impose a tax of not to exceed 1% of all
82 sales of the following that are sold by a restaurant:

83 (A) prepared food; or

84 (B) food and food ingredients; and

85 (iii) a county legislative body of a county of the first class may impose a tax of not to
86 exceed .5% on charges for the accommodations and services described in Subsection
87 59-12-103(1)(i).

88 (b) A tax imposed under Subsection (1)(a) is subject to the audit provisions of Section
89 17-31-5.5.

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

92 (i) financing tourism promotion; and

93 (ii) the development, operation, and maintenance of ~~[tourist, recreation, cultural, and~~
94 ~~convention facilities as defined in Section 59-12-602.];~~

95 (A) an airport facility;

96 (B) a convention facility;

97 (C) a cultural facility;

98 (D) a recreation facility; or

99 (E) a tourist facility.

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

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

105 (ii) combine the sale of:

106 (A) ski lift tickets; and

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

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

111 (a) an airport facility;

112 (b) a convention facility;

113 (c) a cultural facility;

114 (d) a recreation facility; or

115 (e) a tourist facility.

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

118 (b) The ordinance under Subsection (4)(a) shall include provisions substantially the
119 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
120 those items and sales described in Subsection (1).

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

124 (5) In order to maintain in effect its tax ordinance adopted under this part, each county
125 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
126 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
127 amendments to Part 1, Tax Collection.

128 (6) (a) Regardless of whether a county of the first class creates a tourism tax advisory
129 board in accordance with Section 17-31-8, the county legislative body of the county of the first
130 class shall create a tax advisory board in accordance with this Subsection (6).

131 (b) The tax advisory board shall be composed of nine members appointed as follows:

132 (i) four members shall be appointed by the county legislative body of the county of the
133 first class as follows:

134 (A) one member shall be a resident of the unincorporated area of the county;

135 (B) two members shall be residents of the incorporated area of the county; and

136 (C) one member shall be a resident of the unincorporated or incorporated area of the
137 county; and

138 (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or
139 towns within the county of the first class appointed by an organization representing all mayors
140 of cities and towns within the county of the first class.

141 (c) Five members of the tax advisory board constitute a quorum.

142 (d) The county legislative body of the county of the first class shall determine:

143 (i) terms of the members of the tax advisory board;

144 (ii) procedures and requirements for removing a member of the tax advisory board;

145 (iii) voting requirements, except that action of the tax advisory board shall be by at
146 least a majority vote of a quorum of the tax advisory board;

147 (iv) chairs or other officers of the tax advisory board;

148 (v) how meetings are to be called and the frequency of meetings; and

149 (vi) the compensation, if any, of members of the tax advisory board.

150 (e) The tax advisory board under this Subsection (6) shall advise the county legislative
151 body of the county of the first class on the expenditure of revenues collected within the county

152 of the first class from the taxes described in Subsection (1)(a).

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

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

156 (I) Part 1, Tax Collection; or

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

158 (B) Chapter 1, General Taxation Policies.

159 (ii) A tax under this part is not subject to Section 59-12-107.1 or Subsections
160 59-12-205(2) through (7).

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

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

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

166 (c) The commission shall deduct from the distributions under Subsection (7)(b) an
167 administrative charge for collecting the tax as provided in Section 59-12-206.

168 (8) The commission shall distribute the revenues generated by the tax under Subsection
169 (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the
170 following formula:

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

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

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

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

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

181 (b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county
182 enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or

183 change shall take effect:

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

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

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

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

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

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

191 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
192 (9)(b)(ii)(A), the rate of the tax.

193 (c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection
194 (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
195 first billing period:

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

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

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

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

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

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

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

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

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

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

214 (A) on the first day of a calendar quarter; and
215 (B) after a 90-day period beginning on the date the commission receives notice meeting
216 the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.
217 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
218 (A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,
219 repeal, or change in the rate of a tax under this part for the annexing area;
220 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
221 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
222 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
223 (9)(d)(ii)(A), the rate of the tax.
224 (e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
225 (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the
226 first billing period:
227 (A) that begins after the effective date of the enactment of the tax or the tax rate
228 increase; and
229 (B) if the billing period for the transaction begins before the effective date of the
230 enactment of the tax or the tax rate increase imposed under Subsection (1).
231 (ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection
232 (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last
233 billing period:
234 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
235 and
236 (B) if the billing period for the transaction begins before the effective date of the repeal
237 of the tax or the tax rate decrease imposed under Subsection (1).
238 (iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:
239 (A) Subsection 59-12-103(1)(e);
240 (B) Subsection 59-12-103(1)(i); or
241 (C) Subsection 59-12-103(1)(k).
242 **Section 4. Repealer.**
243 This bill repeals:
244 **Section 59-12-601, Purpose statement.**

Legislative Review Note
as of 2-18-08 4:47 PM

Office of Legislative Research and General Counsel

S.B. 245 - Funding Relating to Airports

Fiscal Note

2008 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 will allow counties to use sales and use tax revenue for airport facilities. In order to fund airport facilities, tourism, recreation, cultural, and convention facilities may see a decrease in funding.
