

HB0280S02 compared with HB0280S01

~~text~~ shows text that was in HB0280S01 but was deleted in HB0280S02.

text shows text that was not in HB0280S01 but was inserted into HB0280S02.

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Representative Carl R. Albrecht proposes the following substitute bill:

TRANSIENT ROOM TAX PROVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to the transient room tax.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies expenditure requirements for certain counties that impose a transient room tax;
- ▶ requires a county that imposes a transient room tax to include certain expenditure information in the county's annual report;
- ▶ allows a county auditor to coordinate with the State Tax Commission in determining whether to require an audit of any person that is required to remit a transient room tax;

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- ▶ removes certain time limitations applicable to a municipality's authority to impose a transient room tax; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2021:

- ▶ to the State Tax Commission -- Tax Administration -- ~~{Auditing Division,}~~ as an ongoing appropriation:
 - from the General Fund Restricted - Sales and Use Tax Admin. Fees,
~~{ \$300 }~~ \$264,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-31-2, as last amended by Laws of Utah 2019, Chapters 136 and 304

17-31-5.5, as last amended by Laws of Utah 2019, Chapter 304

59-12-118, as last amended by Laws of Utah 1994, Chapter 259

59-12-302, as last amended by Laws of Utah 2018, Chapters 258 and 312

59-12-353, as last amended by Laws of Utah 2015, Chapter 258

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

Section 1. Section **17-31-2** is amended to read:

17-31-2. Purposes of transient room tax and expenditure of revenue -- Purchase or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions --

Issuance of bonds.

(1) As used in this section:

(a) "Aircraft" means the same as that term is defined in Section 72-10-102.

(b) "Airport" means the same as that term is defined in Section 72-10-102.

(c) "Airport authority" means the same as that term is defined in Section 72-10-102.

(d) "Airport operator" means the same as that term is defined in Section 72-10-102.

(e) "Base year revenue" means the amount of revenue generated by a transient room tax and collected by a county for fiscal year 2018-19.

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(f) "Base year promotion expenditure" means the amount of revenue generated by a transient room tax that a county spent for the purpose described in Subsection (2)(a) during fiscal year 2018-19.

~~[(a)]~~ (g) "Eligible town" means a town that:

(i) is located within a county that has a national park within or partially within the county's boundaries; and

(ii) imposes a resort communities tax authorized by Section 59-12-401.

(h) "Emergency medical services provider" means an eligible town, a local district, or a special service district.

~~[(b)]~~ (i) "Town" means a municipality that is classified as a town in accordance with Section 10-2-301.

~~[(c)]~~ (j) "Transient room tax" means a tax at a rate not to exceed 4.25% authorized by Section 59-12-301.

(2) ~~[Any]~~ Subject to the requirements of this section, a county legislative body may impose the transient room tax for the purposes of:

(a) establishing and promoting recreation, tourism, film production, and conventions;

(b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

(i) convention meeting rooms;

(ii) exhibit halls;

(iii) visitor information centers;

(iv) museums;

(v) sports and recreation facilities including practice fields, stadiums, and arenas; ~~[and]~~

(vi) related facilities;

(vii) if a national park is located within or partially within the county, the following on any route designated by the county legislative body:

(A) transit service, including shuttle service; and

(B) parking infrastructure; and

(viii) an airport, if:

(A) the county is a county of the fourth, fifth, or sixth class; and

(B) the county is the airport operator of the airport;

(c) acquiring land, leasing land, or making payments for construction or infrastructure

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improvements required for or related to the purposes listed in Subsection (2)(b); ~~and~~

(d) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, paying for:

(i) solid waste disposal operations;

(ii) emergency medical services;

(iii) search and rescue activities;

(iv) law enforcement activities; and

(v) road repair and upgrade of:

(A) class B roads, as defined in Section 72-3-103;

(B) class C roads, as defined in Section 72-3-104; or

(C) class D roads, as defined in Section 72-3-105~~[-];~~ and

(e) making the annual payment of principal, interest, premiums, and necessary reserves for any of the aggregate of bonds authorized under Subsection (5).

(3) (a) The county legislative body of a county that imposes a transient room tax at a rate of 3% or less may expend the revenue generated as provided in Subsection (4), after making any reduction required by Subsection (6).

(b) The county legislative body of a county that imposes a transient room tax at a rate that exceeds 3% or increases the rate of transient room tax above 3% may expend:

(i) the revenue generated from the transient room tax at a rate of 3% as provided in Subsection (4), after making any reduction required by Subsection (6); and

(ii) the revenue generated from the portion of the rate that exceeds 3%:

(A) for any combination of the purposes described in Subsections (2) and (5); and

(B) regardless of the limitation on expenditures for the purposes described in Subsection (4).

(4) Subject to Subsection (6), a county may not expend more than 1/3 of the revenue generated by a rate of transient room tax that does not exceed 3%, for any combination of the ~~[following purposes:]~~ purposes described in Subsections (2)(b) through (2)(e).

~~[(a) (i) acquiring, leasing, constructing, furnishing, maintaining, or operating:]~~

~~[(A) convention meeting rooms;]~~

~~[(B) exhibit halls;]~~

~~[(C) visitor information centers;]~~

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~~[(D) museums;]~~

~~[(E) sports and recreation facilities including practice fields, stadiums, and arenas; and]~~

~~[(F) related facilities; and]~~

~~[(ii) acquiring land, leasing land, or making payments for construction or infrastructure improvements required for or related to the purposes described in Subsection (4)(a)(i);]~~

~~[(b) as required to mitigate the impacts of recreation, tourism, or conventions in counties of the fourth, fifth, and sixth class, to pay for:]~~

~~[(i) solid waste disposal operations;]~~

~~[(ii) emergency medical services;]~~

~~[(iii) search and rescue activities;]~~

~~[(iv) law enforcement activities; and]~~

~~[(v) road repair and upgrade of:]~~

~~[(A) class B roads, as defined in Section 72-3-103;]~~

~~[(B) class C roads, as defined in Section 72-3-104; or]~~

~~[(C) class D roads, as defined in Section 72-3-105; or]~~

~~[(c) making the annual payment of principal, interest, premiums, and necessary reserves for any or the aggregate of bonds authorized under Subsection (5).]~~

(5) (a) The county legislative body may issue bonds or cause bonds to be issued, as permitted by law, to pay all or part of any costs incurred for the purposes set forth in ~~[Subsection (4)(a) or (b)]~~ Subsections (2)(b) through (2)(d) that are permitted to be paid from bond proceeds.

(b) If a county legislative body does not need the revenue generated by the transient room tax for payment of principal, interest, premiums, and reserves on bonds issued as provided in Subsection ~~[(4)(c)]~~ (2)(e), the county legislative body shall expend that revenue for the purposes described in Subsection (2), subject to the limitation of Subsection (4).

(6) (a) In addition to the purposes described in Subsection (2), a county legislative body may expend up to 4% of the total revenue generated by a transient room tax to pay a provider for emergency medical services in one or more eligible towns.

~~[(b) An emergency medical services provider means an eligible town, a local district, or a special service district.]~~

~~[(c)]~~ (b) A county legislative body shall reduce the amount that the county is

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authorized to expend for the purposes described in Subsection (4) by subtracting the amount of transient room tax revenue expended in accordance with Subsection (6)(a) from the amount of revenue described in Subsection (4).

(7) (a) A county legislative body in a county of the fourth, fifth, or sixth class shall expend the revenue generated by a transient room tax as follows:

(i) an amount equal to the county's base year promotion expenditure for the purpose described in Subsection (2)(a);

(ii) an amount equal to the difference between the county's base year revenue and the county's base year promotion expenditure in accordance with Subsections (3) through (6); and

(iii) (A) 37% of the revenue that exceeds the county's base year revenue for the purpose described in Subsection (2)(a); and

(B) subject to Subsection (7)(b), 63% of the revenue that exceeds the county's base year revenue for any combination of the purposes described in Subsections (2)(b) through (e) or to pay an emergency medical services provider for emergency medical services in one or more eligible towns.

(b) A county legislative body in a county of the fourth, fifth, or sixth class may not:

(i) expend more than 4% of the revenue generated by a transient room tax to pay an emergency medical services provider for emergency medical services in one or more eligible towns; or

(ii) expend revenue generated by a transient room tax for the purpose described in Subsection (2)(e) in an amount that exceeds the county's base year promotion expenditure.

~~(f)d~~c) The provisions of this Subsection (7) apply notwithstanding any other provision of this section.

~~(f)c~~d) If the total amount of revenue generated by a transient room tax in a county of the fourth, fifth, or sixth class is less than the county's base year promotion expenditure:

(i) Subsections (7)(a) through ~~(f)d~~c) do not apply; and

(ii) the county legislative body shall expend the revenue generated by the transient room tax in accordance with Subsections (3) through (6).

Section 2. Section 17-31-5.5 is amended to read:

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

(1) The legislative body of each county that imposes a transient room tax under Section

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59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall prepare annually a report in accordance with Subsection (2).

(2) The report described in 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 (2)(a)(ii);

(iv) mitigation costs as identified in Subsection 17-31-2(2)(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[(4)(c)] (2)(e) and (5)(a); and

(b) for the tourism, recreation, cultural, convention, and airport 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) an airport facility;

(B) a convention facility;

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- (C) a cultural facility;
- (D) a recreation facility; and
- (E) a tourist facility; and
- (iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).

(3) For the transient room tax, the report described in Subsection (1) shall include a breakdown of each expenditure described in Subsection (2)(a)(i), including:

- (a) whether the expenditure was used for in-state and out-of-state promotion efforts;
- (b) an explanation of how the expenditure targeted a cost created by tourism; and
- (c) an accounting of the expenditure showing that the expenditure was used only for costs directly related to a cost created by tourism.

~~[(3)]~~ (4) A county legislative body shall provide a copy of the report described in Subsection (1) to:

- (a) the Utah Office of Tourism within the Governor's Office of Economic Development;
- (b) its tourism tax advisory board; and
- (c) the Office of the Legislative Fiscal Analyst.

Section 3. Section **59-12-118** is amended to read:

59-12-118. Commission's authority to administer sales and use tax.

Except as provided in [~~Section~~] Sections 59-12-209 and 59-12-302, the commission shall have exclusive authority to administer, operate, and enforce the provisions of this chapter including:

- (1) determining, assessing, and collecting any sales and use tax imposed pursuant to this chapter;
- (2) representing each county, city, and town's interest in any administrative proceeding involving the state or local option sales and use tax;
- (3) adjudicating any administrative proceedings involving the state or local option sales and use tax;
- (4) waiving, reducing, or compromising any penalty and interest imposed in connection with any determination of state or local option sales or use tax; and
- (5) prescribing forms and rules to conform with this chapter for the making of returns and for the ascertainment, assessment, and collection of the taxes imposed under this chapter.

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Section 4. Section **59-12-302** is amended to read:

59-12-302. Collection of tax -- Administrative charge.

(1) Except as provided in [~~Subsection (2) or (3)~~] Subsections (2), (3), and (4), the tax authorized under this part shall be administered, collected, and enforced in accordance with:

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

- (i) Part 1, Tax Collection; or
- (ii) Part 2, Local Sales and Use Tax Act; and
- (b) Chapter 1, General Taxation Policies.

(2) The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.

(3) A tax under this part is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (6).

(4) A county auditor may coordinate with the commission in determining whether to require an audit of any person that is required to remit a tax authorized under this part.

~~[(4)]~~ (5) The commission:

(a) shall distribute the revenue collected from the tax to the county within which the revenue was collected; and

(b) shall retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this part.

Section 5. Section **59-12-353** is amended to read:

59-12-353. Additional municipal transient room tax.

~~[(1) Subject to the limitations of Subsection (2), the]~~ The governing body of a municipality may, in addition to the tax authorized under Section 59-12-352, impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i) if the governing body of the municipality:

~~[(a)]~~ (1) before January 1, 1996, levied and collected a license fee or tax under Section 10-1-203; and

~~[(b)]~~ (2) before January 1, 1997, took official action to obligate the municipality in reliance on the license fees or taxes under Subsection (1)~~[(a)]~~ to the payment of debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement.

~~[(2) The governing body of a municipality may impose the tax under this section until~~

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~~the sooner of:]~~

~~[(a) the day on which the following have been paid in full:]~~

~~[(i) the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); and]~~

~~[(ii) refunding obligations that the municipality incurred as a result of the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)(b); or]~~

~~[(b) 25 years from the day on which the municipality levied the tax under this section.]~~

Section 6. **Appropriation.**

The following sums of money are appropriated for the fiscal year beginning July 1, 2020, and ending June 30, 2021. These are additions to amounts previously appropriated for fiscal year 2021. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

To State Tax Commission -- Tax Administration

From General Fund Restricted - Sales and Use Tax Admin. Fees ~~(\$300)~~ \$264,000

Schedule of Programs:

Auditing Division ~~(\$300)~~ \$140,000

Tax Payer Services \$124,000

The Legislature intends that the State Tax Commission use the appropriation under this item to employ staff or purchase resources to ensure that persons in counties of the fourth, fifth, and sixth class comply with the collection and remittance requirements of a transient room tax authorized in Title 17, Chapter 31, Recreational, Tourist, and Convention Bureaus, and Section 59-12-301.