

TRANSIENT ROOM TAX AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Bradley G. Last

Senate Sponsor: Evan J. Vickers

LONG TITLE**General Description:**

This bill modifies provisions related to the transient room tax.

Highlighted Provisions:

This bill:

- ▶ authorizes certain counties to use a certain amount of transient room tax revenue for visitor management and destination development if the expenditure is prioritized and recommended by a county's tourism tax advisory board;
- ▶ modifies provisions related to a transient room tax reserve fund;
- ▶ modifies the general powers and duties of a county legislative body related to the transient room tax;
- ▶ modifies provisions related to an annual report by a county legislative body; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

17-31-2, as last amended by Laws of Utah 2021, Chapter 376

17-31-3, as last amended by Laws of Utah 2021, Chapter 376



17-31-5, as last amended by Laws of Utah 1996, Chapter 79

17-31-5.5, as last amended by Laws of Utah 2021, Chapters 282 and 376

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.

(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.

(g) "Economic diversification activity" means an economic development activity that is reasonably similar to, supplements, or expands any economic program as administered by the state or the Governor's Office of Economic Opportunity.

(h) "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.

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

(j) "Tourism" means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, development, and advertising for the purpose described in Subsection (2)(a)(i).

(k) "Town" means a municipality that is classified as a town in accordance with

Section 10-2-301.

(1) "Transient room tax" means a tax at a rate not to exceed 4.25% authorized by

Section 59-12-301.

(2) 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:

(i) tourism;

(ii) recreation, film production, and conventions; or

(iii) an economic diversification activity if:

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

(B) the county has more than one national park within or partially within the county's boundaries; and

(C) the county has a base population of 9,000 or more according to current United States census data;

(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;

(vi) related facilities;

(vii) if a national park is located within or partially within the county's boundaries, 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 improvements required for or related to the purposes listed in Subsection (2)(b);

(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 Subsections (6) and (7), 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 purposes described in Subsections (2)(b) through (2)(e).

(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 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 (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;

(i) 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[-]; and

(ii) may expend up to 10% of the total revenue generated by a transient room tax for visitor management and destination development if:

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

(B) the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) or the substantially similar body as described in Subsection 17-31-8(1)(b) has prioritized and recommended the use of the revenue in accordance with Subsection 17-31-8(4).

(b) A county legislative body shall reduce the amount that the county is 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) Except as provided in Subsection (7)(b), 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)(i);

(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)(i); and

(B) subject to Subsection (7)(c), 63% of the revenue that exceeds the county's base year revenue for any combination of the purposes described in Subsections (2)(a)(ii) 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 with one or more national recreation areas administered by the National Park Service or the Forest Service or national parks within or partially within the county's boundaries shall expend the revenue

generated by a transient room tax as follows:

(i) for a purpose described in Subsection (2)(a) and subject to the limitations described in Subsection (7)(d), the greater of:

(A) an amount equal to the county's base year promotion expenditure; or

(B) 37% of the transient room tax revenue; and

(ii) the remainder of the transient room tax not expended in accordance with Subsection (7)(b)(i) for any combination of the purposes described in Subsection (2) and, subject to the limitation described in Subsection (7)(c), Subsection (6).

(c) 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.

(d) A county legislative body may not expend:

(i) more than 1/5 of the revenue described in Subsection (7)(b)(i) for a purpose described in Subsection (2)(a)(ii); and

(ii) more than 1/3 of the revenue described in Subsection (7)(b)(i) for the purpose described in Subsection (2)(a)(iii).

(e) The provisions of this Subsection (7) apply notwithstanding any other provision of this section.

(f) 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 (d) 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 17-31-3 is amended to read:

17-31-3. Reserve fund authorized -- Use of collected funds -- Limitation on surplus in fund.

(1) The county legislative body may create a reserve fund.

(2) (a) Subject to ~~[Subsection (2)(b)]~~ Subsections (2)(b) and (c), a county legislative

body shall retain any transient room tax funds collected but not expended during any fiscal year in the reserve fund to be used in accordance with Sections 17-31-2 through 17-31-5.

(b) ~~[The]~~ Except as described in Subsection (2)(c), accumulated unappropriated surplus in the reserve fund, as determined before the county's adoption of a tentative budget, may not exceed 50% of the total transient room tax revenue for the current fiscal year.

(c) For a fiscal year beginning on or after July 1, 2019, and ending on or before July 1, 2023 ~~H→ [a]~~ :

(i) ~~←H~~ if a county receives more than 150% of total transient room tax revenue in the fiscal year compared to the total transient room tax revenue received in the previous fiscal year, accumulated unappropriated surplus in the reserve fund, as determined before the county's adoption of a tentative budget, may not exceed 50% of the total transient room tax revenue for the previous fiscal year plus an amount equal to the total transient room tax revenue that is more than 100% of total transient room tax revenue from the previous fiscal year ~~H→ [a]~~ ; and

(ii) if a county adds to the county's reserve fund an amount equal to the total transient room tax revenue that is more than 100% of total transient room tax revenue from the previous fiscal year as authorized in Subsection (2)(c)(i), the county may expend that additional reserve fund money for visitor management and destination development subject to the requirements described in Subsections 17-31-2(6)(a)(ii)(A) and (B). ~~←H~~

Section 3. Section 17-31-5 is amended to read:

17-31-5. General powers and duties of a county legislative body related to the transient room tax.

~~[The county legislative body may do and perform any and all other acts and things necessary, convenient, desirable, or appropriate to carry out the provisions of Sections 17-31-2 through 17-31-5.]~~

~~H→ (1)~~ ~~←H~~ The legislative body of each county that imposes a transient room tax in accordance

with Section 17-31-2:

~~H→ [(4)]~~ (a) ~~←H~~ shall ~~H→~~ , except as provided in Subsection (2), ~~←H~~ at least annually consider the priorities and recommendations of the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) or the substantially similar body as described in Subsection 17-31-8(1)(b) in one or more public meetings before finalizing decisions on expenditures of revenue from the transient room tax in each fiscal year;

~~H→ [(2)]~~ (b) ~~←H~~ shall prepare and provide the annual written report for each fiscal year★

207a as described
208 in Section [17-31-5.5](#); and
209 may do and perform any and all other acts and things necessary,
209a convenient,

210 ☛desirable, or appropriate to carry out the provisions of Sections [17-31-2](#) through [17-31-5.5](#).

210a **Ĥ→ (2) Subsection (1)(a) does not apply to the legislative body of a county if:**

210b **(a) the legislative body of the county has entered into a written contract with a**
210c **substantially similar body to a tourism tax advisory board as described in Subsection**

210d **17-31-8(1)(b); and**

210e **(b) the written contract described in Subsection (2)(a) clearly delineates how the**
210f **expenditures of revenue from the transient room tax are to be spent.** ←Ĥ

211 Section 4. Section 17-31-5.5 is amended to read:

212 **17-31-5.5. Report by county legislative body -- Content.**

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

59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section 59-12-603 shall prepare annually a written 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;

(D) conventions; and

(E) economic diversification activity;

(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(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;

(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.

(4) [A] On or before October 1, the county legislative body shall provide a copy of the annual written report described in Subsection (1) for the previous fiscal year to:

(a) the Utah Office of Tourism within the Governor's Office of Economic Opportunity;

(b) the county's tourism tax advisory board; and

(c) the Office of the Legislative Fiscal Analyst.

Section 5. **Effective date.**

This bill takes effect on July 1, 2022.