

HB0417S02 compared with HB0417

~~{deleted text}~~ shows text that was in HB0417 but was deleted in HB0417S02.

inserted text shows text that was not in HB0417 but was inserted into HB0417S02.

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Representative Phil Lyman proposes the following substitute bill:

MOTOR VEHICLE TAX AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Phil Lyman

Senate Sponsor: ~~{ }~~ Evan J. Vickers

LONG TITLE

General Description:

This bill amends provisions related to the Tourism, Recreation, Cultural, Convention, and Airport Facilities Tax Act.

Highlighted Provisions:

This bill:

- ▶ ~~{allows}~~ provides the circumstances under which a county may use the revenue collected from a county tax on rental vehicles ~~{to be used}~~ to mitigate the impacts of tourism; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

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None

Utah Code Sections Affected:

AMENDS:

17-31-5.5, as last amended by Laws of Utah 2022, Chapter 360

59-12-603, as last amended by Laws of Utah 2020, Chapter 407

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. Report by county legislative body -- Content.

(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

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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) mitigation costs as identified in Subsection 59-12-603(2)(b); and

~~[(iii)]~~ (iv) 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) 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 2. Section **59-12-603** is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenue -- Adoption of ordinance required -- Advisory board -- Administration -- Collection -- Administrative charge --

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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 rentals of motor vehicles, except for short-term 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) 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 rentals of motor vehicles, except for short-term 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) [~~beginning on January 1, 2021,~~] a county legislative body of any county may impose a tax of not to exceed 7% on all short-term rentals of off-highway vehicles and recreational vehicles;

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

- (A) alcoholic beverages;
- (B) food and food ingredients; or
- (C) prepared food; and

(iv) a county legislative body of a 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 subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to Subsection [~~(2)(b)~~] (2)(c), a county may use revenue from the imposition of a tax under Subsection (1) for:

- (i) financing tourism promotion; and
- (ii) the development, operation, and maintenance of:
 - (A) an airport facility;

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- (B) a convention facility;
- (C) a cultural facility;
- (D) a recreation facility; or
- (E) a tourist facility.

(b) ~~(i)~~ (i) In addition to the uses described in Subsection (2)(a) and subject to Subsection (2)~~(c)~~(b)(ii), a county of the fourth, fifth, or sixth class or a county with a population density of fewer than 15 people per square mile may expend the revenue from the imposition of a tax under Subsections (1)(a)(i) and (ii) on the following activities to mitigate the impacts of tourism:

- ~~(ii)A~~ (A) solid waste disposal;
- ~~(ii)B~~ (B) search and rescue activities;
- ~~(ii)C~~ (C) law enforcement activities; ~~or~~
- ~~(ii)D~~ (D) emergency medical services~~; or~~
- (E) fire protection services.

(ii) A county may only expend the revenue as outlined in Subsection (2)(b)(i) if the county's tourism tax advisory board created under Subsection 17-31-8(1)(a) has prioritized the use of revenue to mitigate the impacts of tourism.

(c) A county of the first class shall expend at least \$450,000 each year of the revenue from the imposition of a tax authorized by Subsection (1)(a)(iv) 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) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county, city, or town under Title 11, Chapter 14, Local Government Bonding Act, or a community reinvestment agency under Title 17C, Chapter 1, Part 5, Agency Bonds, to finance:

(a) an airport facility;

(b) a convention facility;

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- (c) a cultural facility;
- (d) a recreation facility; or
- (e) a tourist facility.

(4) (a) To impose a tax under Subsection (1), the county legislative body shall adopt an ordinance imposing the tax.

(b) The ordinance under Subsection (4)(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.

(5) To maintain in effect a tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to the county's tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

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

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

- (i) four members shall be residents of a county of the first class appointed by the county legislative body of the county of the first class; and
- (ii) subject to Subsections (6)(c) and (d), five members shall be mayors of cities or towns within the county of the first class appointed by an organization representing all mayors of cities and towns within the county of the first class.

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

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

- (i) terms of the members of the tax advisory board;
- (ii) procedures and requirements for removing a member of the tax advisory board;
- (iii) voting requirements, except that action of the tax advisory board shall be by at least a majority vote of a quorum of the tax advisory board;
- (iv) chairs or other officers of the tax advisory board;

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

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

(e) The tax advisory board under this Subsection (6) shall advise the county legislative body of the county of the first class on the expenditure of revenue collected within the county of the first class from the taxes described in Subsection (1)(a).

(7) (a) (i) Except as provided in Subsection (7)(a)(ii), a 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.

(ii) 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).

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

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

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

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

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

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

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

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

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Part 2,

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County Annexation.

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

(b) (i) Except as provided in Subsection (9)(c), if 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 day on which the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(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 (9)(b)(ii)(A);

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

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

(c) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.

(d) (i) Except as provided in Subsection (9)(e), if 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 day on which the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

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

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

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- (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
- (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
- (D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) If the billing period for a transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1), the enactment of the tax or the tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the enactment of the tax or the tax rate increase.

(ii) If the billing period for a transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the tax or the tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease.