

COUNTY TAX AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael S. Kennedy

House Sponsor: _____

LONG TITLE**General Description:**

This bill amends provisions related to county taxes.

Highlighted Provisions:

This bill:

- ▶ allows all counties to expend transient room tax revenue for certain purposes related to tourism mitigation, including criminal justice activities and equipment;
- ▶ allows counties to expend tourism, recreation, cultural, convention, and airport facilities tax revenue for certain purposes related to tourism mitigation; and
- ▶ makes conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-31-2, as last amended by Laws of Utah 2020, Chapter 315**17-31-5.5**, as last amended by Laws of Utah 2020, Chapter 315**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 17-31-2 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) "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.

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

(j) "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 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;
- (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 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 and equipment;
- (iii) search and rescue activities and equipment;
- (iv) law enforcement activities~~;~~ and equipment;
- (v) criminal justice activities and equipment; and
- ~~[(v)]~~ (vi) 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 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 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) 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) 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.

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

(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 (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 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;

152 (B) exhibit halls;
153 (C) visitor information centers;
154 (D) museums; and
155 (E) related facilities;
156 (iii) acquiring or leasing land required for or related to the purposes listed in
157 Subsection (2)(a)(ii);
158 (iv) mitigation costs as identified in Subsection 17-31-2(2)(d); and
159 (v) making the annual payment of principal, interest, premiums, and necessary reserves
160 for any or the aggregate of bonds issued to pay for costs referred to in Subsections
161 17-31-2(2)(e) and (5)(a); and
162 (b) for the tourism, recreation, cultural, convention, and airport facilities tax,
163 identification of expenditures for:
164 (i) financing tourism promotion, which means an activity to develop, encourage,
165 solicit, or market tourism that attracts transient guests to the county, including planning,
166 product development, and advertising;
167 (ii) the development, operation, and maintenance of the following facilities as defined
168 in Section 59-12-602:
169 (A) an airport facility;
170 (B) a convention facility;
171 (C) a cultural facility;
172 (D) a recreation facility; and
173 (E) a tourist facility; [~~and~~]
174 (iii) a pledge as security for evidences of indebtedness under Subsection
175 59-12-603(3)[~~;~~]; and
176 (iv) mitigation costs as identified in Subsection 59-12-603(2)(a)(iii).
177 (3) For the transient room tax, the report described in Subsection (1) shall include a
178 breakdown of each expenditure described in Subsection (2)(a)(i), including:
179 (a) whether the expenditure was used for in-state and out-of-state promotion efforts;
180 (b) an explanation of how the expenditure targeted a cost created by tourism; and
181 (c) an accounting of the expenditure showing that the expenditure was used only for
182 costs directly related to a cost created by tourism.

(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 **59-12-603** is amended to read:

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

(B) a convention facility;

(C) a cultural facility;

(D) a recreation facility; or

(E) a tourist facility[-]; and

(iii) mitigating the impacts of recreation, tourism, or conventions, paying for:

(A) solid waste disposal operations;

(B) emergency medical services and equipment;

(C) search and rescue activities and equipment;

(D) law enforcement activities and equipment;

(E) criminal justice activities and equipment; and

(F) road repair and upgrade of class B roads as defined in Section 72-3-103, class C roads as defined in Section 72-3-104, or class D roads as defined in Section 72-3-105.

(b) 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;
- (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;

276 (ii) procedures and requirements for removing a member of the tax advisory board;
277 (iii) voting requirements, except that action of the tax advisory board shall be by at
278 least a majority vote of a quorum of the tax advisory board;
279 (iv) chairs or other officers of the tax advisory board;
280 (v) how meetings are to be called and the frequency of meetings; and
281 (vi) the compensation, if any, of members of the tax advisory board.

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

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

287 (A) the same procedures used to administer, collect, and enforce the tax under:
288 (I) Part 1, Tax Collection; or
289 (II) Part 2, Local Sales and Use Tax Act; and
290 (B) Chapter 1, General Taxation Policies.

291 (ii) A tax under this part is not subject to Section [59-12-107.1](#) or [59-12-123](#) or
292 Subsections [59-12-205](#)(2) through (6).

293 (b) Except as provided in Subsection (7)(c):
294 (i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the
295 commission shall distribute the revenue to the county imposing the tax; and
296 (ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenue
297 according to the distribution formula provided in Subsection (8).

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

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

303 (a) the commission shall distribute 70% of the revenue based on the percentages
304 generated by dividing the revenue collected by each county under Subsection (1)(a)(i)(B) by
305 the total revenue collected by all counties under Subsection (1)(a)(i)(B); and
306 (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, 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

338 annexing area.

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

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

342 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

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

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

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

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