

Representative Carl R. Albrecht proposes the following substitute bill:

TRANSIENT ROOM TAX AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Carl R. Albrecht

Senate Sponsor: Evan J. Vickers

LONG TITLE

General Description:

This bill modifies provisions related to the transient room sales tax.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for how a county of the fourth, fifth, or sixth class spends revenue from the transient room tax;
- ▶ limits the surplus in a transient room tax reserve fund;
- ▶ authorizes a county auditor to make referrals to assist the State Tax Commission in determining whether to audit a person that is required to collect and remit the transient room tax; and
- ▶ creates a sunset date for provisions relating to expenditure of transient room tax revenue for an economic diversification activity.

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

17-31-3, as last amended by Laws of Utah 2014, Chapter 176

59-12-302, as last amended by Laws of Utah 2020, Chapter 315

63I-1-217, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 18

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 Development.

~~[(g)]~~ (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.

~~[(h)]~~ (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.

~~[(+)]~~ (l) "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, ~~[tourism,]~~ 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]~~ 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 ~~[Subsection]~~ 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 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]~~ 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)(b)]~~ (7)(c), 63% of the revenue that exceeds the county's base year revenue for any combination of the purposes described in Subsections ~~[(2)(b)]~~ (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).

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

~~[(d)]~~ (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 ~~[(e)]~~ (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 ~~[and any funds collected but not expended during any fiscal year shall be retained in a special fund to be used in accordance with Sections 17-31-2 through 17-31-5].~~

(2) (a) Subject to Subsection (2)(b), 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 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.

Section 3. Section **59-12-302** is amended to read:

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

(1) Except as provided in 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) A county auditor may make referrals to the commission to assist the commission in determining whether to require an audit of any person that is required to remit a tax authorized under this part.

(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 4. Section **63I-1-217** is amended to read:

63I-1-217. Repeal dates, Title 17.

(1) In relation to Section [17-31-2](#), on July 1, 2026:

(a) Subsection [17-31-2](#)(1)(g), which defines "economic diversification activity," is repealed;

(b) Subsection [17-31-2](#)(2)(a)(iii), relating to establishing and promoting an economic

212 diversification activity, is repealed;

213 (c) Subsection 17-31-2(7)(b)(i) is amended to read:

214 "(i) for a purpose described in Subsection (2)(a) and subject to the limitation described
215 in Subsection (7)(d), the greater of:"; and

216 (d) Subsection 17-31-2(7)(d)(ii), relating to a limitation on the expenditure of revenue
217 for an economic diversification activity, is repealed.

218 [~~1~~] (2) Subsection 17-16-21(2)(d) is repealed July 1, 2023.

219 [~~2~~] (3) Title 17, Chapter 21a, Part 3, Administration and Standards, which creates the
220 Utah Electronic Recording Commission, is repealed July 1, 2022.