

Lincoln Fillmore proposes the following substitute bill:

Restaurant Tax Revisions

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor:

LONG TITLE

General Description:

This bill amends the restaurant tax within the Tourism, Recreation, Cultural, Convention, and Airport Facilities tax.

Highlighted Provisions:

This bill:

- defines terms;
- imposes the 1% county tax historically imposed only in restaurants on certain prepared food transactions in a convenience store, gas station, or grocery store; 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:

59-12-602, as last amended by Laws of Utah 2024, Chapter 483

59-12-603, as last amended by Laws of Utah 2024, Chapter 274

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

Section 1. Section **59-12-602** is amended to read:

59-12-602 . Definitions.

As used in this part:

(1) "Airport facility" means an airport of regional significance, and includes:

- (a) an appurtenance to an airport, including a fixed guideway that provides transportation service to or from the airport;
- (b) a control tower, including a radar system;

(c) a public area of an airport; or

(d) a terminal facility.

(2) "Airport of regional significance" means the same as that term is defined in Section 59-12-2202.

(3) "All-terrain type I vehicle" means the same as that term is defined in Section 41-22-2.

(4) "All-terrain type II vehicle" means the same as that term is defined in Section 41-22-2.

(5) "All-terrain type III vehicle" means the same as that term is defined in Section 41-22-2.

(6) "Convenience store" means a retail establishment described in NAICS Code 445131, Convenience Retailers, of the 2022 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget.

~~[(6)]~~ (7) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

~~[(7)]~~ (8) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

(9)(a) "Customized" means prepared or heated by a seller for on-premise or immediate consumption at the request or specification of the purchaser.

(b) "Customized" does not include a purchaser specifying the quantity.

(10) "Gas station" means a retail establishment at which the primary purpose or function is the sale of fuel.

(11) "Grocery store" means a retail establishment at which the primary business or function is the sale of food or food ingredients for off-premise, but not immediate, consumption.

~~[(8)]~~ (12)(a) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(b) "Off-highway vehicle" does not include a vehicle that is a motor vehicle under Section 41-1a-102.

~~[(9)]~~ (13) "Motorcycle" means the same as that term is defined in Section 41-22-2.

~~[(10)]~~ (14) "Recreation facility" or "tourist facility" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

~~[(11)]~~ (15)(a) "Recreational vehicle" means a vehicular unit other than a mobile home, primarily designed as a temporary dwelling for travel, recreational, or vacation use, that is pulled by another vehicle.

(b) "Recreational vehicle" includes:

- (i) a travel trailer;
- (ii) a camping trailer; and
- (iii) a fifth wheel trailer.

(c) "Recreational vehicle" does not include a vehicle that is a motor vehicle under Section 41-1a-102.

~~[(12)]~~ (16)(a) "Restaurant" means a retail establishment at which the primary business or function is the sale of prepared food for immediate or on-premises consumption.

~~[(a)]~~ (b) "Restaurant" includes ~~[any]~~ a coffee shop, cafeteria, luncheonette, soda fountain, dinner theater, or fast-food service where food is prepared for immediate consumption.

~~[(b)]~~ (c) "Restaurant" does not include:

~~[(i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and]~~

~~(i) a convenience store;~~

~~(ii) a gas station;~~

~~(iii) a grocery store; or~~

~~[(ii)]~~ (iv) a theater that sells food items~~[-, but not]~~ other than a dinner theater.

~~[(13)]~~ (17) "Snowmobile" means the same as that term is defined in Section 41-22-2.

~~[(14)]~~ (18) "Travel trailer," "camping trailer," or "fifth wheel trailer" means a portable vehicle without motive power, designed as a temporary dwelling for travel, recreational, or vacation use that does not require a special highway movement permit when drawn by a self-propelled motor vehicle.

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 -- 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;

- 98 and
- 99 (B) a county legislative body of any county imposing a tax under Subsection
- 100 (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A),
- 101 impose a tax of not to exceed 4% on all short-term rentals of motor vehicles,
- 102 except for short-term rentals of motor vehicles made for the purpose of
- 103 temporarily replacing a person's motor vehicle that is being repaired pursuant
- 104 to a repair or an insurance agreement;
- 105 (ii) a county legislative body of any county may impose a tax of not to exceed 7% on
- 106 all short-term rentals of off-highway vehicles and recreational vehicles;
- 107 (iii) a county legislative body of any county may impose a tax of not to exceed 1% of
- 108 all sales of~~[the following that are sold by a restaurant]:~~
- 109 (A) alcoholic beverages[;] , food and food ingredients, or prepared food sold by a
- 110 restaurant; and
- 111 (B) [food and food ingredients; or] customized prepared food sold by a
- 112 convenience store, a gas station, or a grocery store;
- 113 ~~[(C) prepared food;]~~
- 114 (iv) a county legislative body of a county of the first class may impose a tax of not to
- 115 exceed .5% on charges for the accommodations and services described in
- 116 Subsection 59-12-103(1)(i); and
- 117 (v) if a county legislative body of any county imposes a tax under Subsection
- 118 (1)(a)(i), a tax at the same rate applies to car sharing of less than 30 days, except
- 119 for car sharing for the purpose of temporarily replacing a person's motor vehicle
- 120 that is being repaired pursuant to a repair or an insurance agreement.
- 121 (b) A tax imposed under Subsection (1)(a) is subject to the ~~[audit]~~ reporting provisions of
- 122 Section 17-31-5.5.
- 123 (2)(a) Subject to Subsection (2)(c), a county may use revenue from the imposition of a
- 124 tax under Subsection (1) for:
- 125 (i) financing tourism promotion; and
- 126 (ii) the development, operation, and maintenance of:
- 127 (A) an airport facility;
- 128 (B) a convention facility;
- 129 (C) a cultural facility;
- 130 (D) a recreation facility; or
- 131 (E) a tourist facility.

(b)(i) In addition to the uses described in Subsection (2)(a) and subject to Subsection (2)(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:

- (A) solid waste disposal;
- (B) search and rescue activities;
- (C) law enforcement activities;
- (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;
- (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;

(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 (5).
- (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, 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

- 234 part;
- 235 (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);
- 236 (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and
- 237 (D) if the county enacts the tax or changes the rate of the tax described in
- 238 Subsection (9)(b)(ii)(A), the rate of the tax.
- 239 (c)(i) If the billing period for a transaction begins before the effective date of the
- 240 enactment of the tax or the tax rate increase imposed under Subsection (1), the
- 241 enactment of the tax or the tax rate increase shall take effect on the first day of the
- 242 first billing period that begins after the effective date of the enactment of the tax
- 243 or the tax rate increase.
- 244 (ii) If the billing period for a transaction begins before the effective date of the repeal
- 245 of the tax or the tax rate decrease imposed under Subsection (1), the repeal of the
- 246 tax or the tax rate decrease shall take effect on the first day of the last billing
- 247 period that began before the effective date of the repeal of the tax or the tax rate
- 248 decrease.
- 249 (d)(i) Except as provided in Subsection (9)(e), if the annexation will result in the
- 250 enactment, repeal, or change in the rate of a tax under this part for an annexing
- 251 area, the enactment, repeal, or change shall take effect:
- 252 (A) on the first day of a calendar quarter; and
- 253 (B) after a 90-day period beginning on the day on which the commission receives
- 254 notice meeting the requirements of Subsection (9)(d)(ii) from the county that
- 255 annexes the annexing area.
- 256 (ii) The notice described in Subsection (9)(d)(i)(B) shall state:
- 257 (A) that the annexation described in Subsection (9)(d)(i) will result in an
- 258 enactment, repeal, or change in the rate of a tax under this part for the annexing
- 259 area;
- 260 (B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);
- 261 (C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and
- 262 (D) if the county enacts the tax or changes the rate of the tax described in
- 263 Subsection (9)(d)(ii)(A), the rate of the tax.
- 264 (e)(i) If the billing period for a transaction begins before the effective date of the
- 265 enactment of the tax or the tax rate increase imposed under Subsection (1), the
- 266 enactment of the tax or the tax rate increase shall take effect on the first day of the
- 267 first billing period that begins after the effective date of the enactment of the tax

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

274 Section 3. **Effective Date.**

275 This bill takes effect on January 1, 2026.