

**TRANSIENT ROOM TAX AMENDMENTS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Carl R. Albrecht**

Senate Sponsor: Evan J. Vickers

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**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;
- ▶ creates a sunset date for provisions relating to expenditure of transient room tax revenue for an economic diversification activity; and
- ▶ makes technical and 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
- 17-31-3**, as last amended by Laws of Utah 2014, Chapter 176
- 17-31-5.5**, as last amended by Laws of Utah 2020, Chapter 315

30 59-12-302, as last amended by Laws of Utah 2020, Chapter 315

31 63I-1-217, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 18

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

34 Section 1. Section 17-31-2 is amended to read:

35 **17-31-2. Purposes of transient room tax and expenditure of revenue -- Purchase**  
36 **or lease of facilities -- Mitigating impacts of recreation, tourism, or conventions --**  
37 **Issuance of bonds.**

38 (1) As used in this section:

39 (a) "Aircraft" means the same as that term is defined in Section 72-10-102.

40 (b) "Airport" means the same as that term is defined in Section 72-10-102.

41 (c) "Airport authority" means the same as that term is defined in Section 72-10-102.

42 (d) "Airport operator" means the same as that term is defined in Section 72-10-102.

43 (e) "Base year revenue" means the amount of revenue generated by a transient room tax  
44 and collected by a county for fiscal year 2018-19.

45 (f) "Base year promotion expenditure" means the amount of revenue generated by a  
46 transient room tax that a county spent for the purpose described in Subsection (2)(a) during  
47 fiscal year 2018-19.

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

51 [~~g~~] (h) "Eligible town" means a town that:

52 (i) is located within a county that has a national park within or partially within the  
53 county's boundaries; and

54 (ii) imposes a resort communities tax authorized by Section 59-12-401.

55 [~~h~~] (i) "Emergency medical services provider" means an eligible town, a local district,  
56 or a special service district.

57 (j) "Tourism" means an activity to develop, encourage, solicit, or market tourism that

58 attracts transient guests to the county, including planning, development, and advertising for the  
59 purpose described in Subsection (2)(a)(i).

60 [(†)] (k) "Town" means a municipality that is classified as a town in accordance with  
61 Section 10-2-301.

62 [(†)] (l) "Transient room tax" means a tax at a rate not to exceed 4.25% authorized by  
63 Section 59-12-301.

64 (2) Subject to the requirements of this section, a county legislative body may impose  
65 the transient room tax for the purposes of:

66 (a) establishing and promoting:

67 (i) tourism;

68 (ii) recreation, [~~tourism;~~] film production, and conventions; or

69 (iii) an economic diversification activity if:

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

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

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

75 (b) acquiring, leasing, constructing, furnishing, maintaining, or operating:

76 (i) convention meeting rooms;

77 (ii) exhibit halls;

78 (iii) visitor information centers;

79 (iv) museums;

80 (v) sports and recreation facilities including practice fields, stadiums, and arenas;

81 (vi) related facilities;

82 (vii) if a national park is located within or partially within the [~~county~~] county's  
83 boundaries, the following on any route designated by the county legislative body:

84 (A) transit service, including shuttle service; and

85 (B) parking infrastructure; and

- 86 (viii) an airport, if:
- 87 (A) the county is a county of the fourth, fifth, or sixth class; and
- 88 (B) the county is the airport operator of the airport;
- 89 (c) acquiring land, leasing land, or making payments for construction or infrastructure
- 90 improvements required for or related to the purposes listed in Subsection (2)(b);
- 91 (d) as required to mitigate the impacts of recreation, tourism, or conventions in
- 92 counties of the fourth, fifth, and sixth class, paying for:
- 93 (i) solid waste disposal operations;
- 94 (ii) emergency medical services;
- 95 (iii) search and rescue activities;
- 96 (iv) law enforcement activities; and
- 97 (v) road repair and upgrade of:
- 98 (A) class B roads, as defined in Section [72-3-103](#);
- 99 (B) class C roads, as defined in Section [72-3-104](#); or
- 100 (C) class D roads, as defined in Section [72-3-105](#); and
- 101 (e) making the annual payment of principal, interest, premiums, and necessary reserves
- 102 for any of the aggregate of bonds authorized under Subsection (5).
- 103 (3) (a) The county legislative body of a county that imposes a transient room tax at a
- 104 rate of 3% or less may expend the revenue generated as provided in Subsection (4), after
- 105 making any reduction required by Subsection (6).
- 106 (b) The county legislative body of a county that imposes a transient room tax at a rate
- 107 that exceeds 3% or increases the rate of transient room tax above 3% may expend:
- 108 (i) the revenue generated from the transient room tax at a rate of 3% as provided in
- 109 Subsection (4), after making any reduction required by Subsection (6); and
- 110 (ii) the revenue generated from the portion of the rate that exceeds 3%:
- 111 (A) for any combination of the purposes described in Subsections (2) and (5); and
- 112 (B) regardless of the limitation on expenditures for the purposes described in
- 113 Subsection (4).

114 (4) Subject to ~~[Subsection]~~ Subsections (6) and (7), a county may not expend more than  
115 1/3 of the revenue generated by a rate of transient room tax that does not exceed 3%, for any  
116 combination of the purposes described in Subsections (2)(b) through (2)(e).

117 (5) (a) The county legislative body may issue bonds or cause bonds to be issued, as  
118 permitted by law, to pay all or part of any costs incurred for the purposes set forth in  
119 Subsections (2)(b) through (2)(d) that are permitted to be paid from bond proceeds.

120 (b) If a county legislative body does not need the revenue generated by the transient  
121 room tax for payment of principal, interest, premiums, and reserves on bonds issued as  
122 provided in Subsection (2)(e), the county legislative body shall expend that revenue for the  
123 purposes described in Subsection (2), subject to the limitation of Subsection (4).

124 (6) (a) In addition to the purposes described in Subsection (2), a county legislative  
125 body may expend up to 4% of the total revenue generated by a transient room tax to pay a  
126 provider for emergency medical services in one or more eligible towns.

127 (b) A county legislative body shall reduce the amount that the county is authorized to  
128 expend for the purposes described in Subsection (4) by subtracting the amount of transient  
129 room tax revenue expended in accordance with Subsection (6)(a) from the amount of revenue  
130 described in Subsection (4).

131 (7) (a) ~~[A]~~ Except as provided in Subsection (7)(b), a county legislative body in a  
132 county of the fourth, fifth, or sixth class shall expend the revenue generated by a transient room  
133 tax as follows:

134 (i) an amount equal to the county's base year promotion expenditure for the purpose  
135 described in Subsection (2)(a)(i);

136 (ii) an amount equal to the difference between the county's base year revenue and the  
137 county's base year promotion expenditure in accordance with Subsections (3) through (6); and

138 (iii) (A) 37% of the revenue that exceeds the county's base year revenue for the purpose  
139 described in Subsection (2)(a)(i); and

140 (B) subject to Subsection ~~[(7)(b)]~~ (7)(c), 63% of the revenue that exceeds the county's  
141 base year revenue for any combination of the purposes described in Subsections ~~[(2)(b)]~~

142 (2)(a)(ii) through (e) or to pay an emergency medical services provider for emergency medical  
143 services in one or more eligible towns.

144 (b) A county legislative body in a county of the fourth, fifth, or sixth class with one or  
145 more national recreation areas administered by the National Park Service or the Forest Service  
146 or national parks within or partially within the county's boundaries shall expend the revenue  
147 generated by a transient room tax as follows:

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

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

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

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

155 ~~(b)~~ (c) A county legislative body in a county of the fourth, fifth, or sixth class may  
156 not:

157 (i) expend more than 4% of the revenue generated by a transient room tax to pay an  
158 emergency medical services provider for emergency medical services in one or more eligible  
159 towns; or

160 (ii) expend revenue generated by a transient room tax for the purpose described in  
161 Subsection (2)(e) in an amount that exceeds the county's base year promotion expenditure.

162 (d) A county legislative body may not expend:

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

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

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

169 ~~(f)~~ (f) If the total amount of revenue generated by a transient room tax in a county of

170 the fourth, fifth, or sixth class is less than the county's base year promotion expenditure:

171 (i) Subsections (7)(a) through ~~[(e)]~~ (d) do not apply; and

172 (ii) the county legislative body shall expend the revenue generated by the transient  
173 room tax in accordance with Subsections (3) through (6).

174 Section 2. Section 17-31-3 is amended to read:

175 **17-31-3. Reserve fund authorized -- Use of collected funds -- Limitation on**  
176 **surplus in fund.**

177 (1) The county legislative body may create a reserve fund ~~[and any funds collected but~~  
178 ~~not expended during any fiscal year shall be retained in a special fund to be used in accordance~~  
179 ~~with Sections 17-31-2 through 17-31-5].~~

180 (2) (a) Subject to Subsection (2)(b), a county legislative body shall retain any transient  
181 room tax funds collected but not expended during any fiscal year in the reserve fund to be used  
182 in accordance with Sections 17-31-2 through 17-31-5.

183 (b) The accumulated unappropriated surplus in the reserve fund, as determined before  
184 the county's adoption of a tentative budget, may not exceed 50% of the total transient room tax  
185 revenue for the current fiscal year.

186 Section 3. Section 17-31-5.5 is amended to read:

187 **17-31-5.5. Report by county legislative body -- Content.**

188 (1) The legislative body of each county that imposes a transient room tax under Section  
189 59-12-301 or a tourism, recreation, cultural, convention, and airport facilities tax under Section  
190 59-12-603 shall prepare annually a report in accordance with Subsection (2).

191 (2) The report described in Subsection (1) shall include a breakdown of expenditures  
192 into the following categories:

193 (a) for the transient room tax, identification of expenditures for:

194 (i) establishing and promoting:

195 (A) recreation;

196 (B) tourism;

197 (C) film production; ~~[and]~~

198 (D) conventions; and  
199 (E) economic diversification activity;  
200 (ii) acquiring, leasing, constructing, furnishing, or operating:  
201 (A) convention meeting rooms;  
202 (B) exhibit halls;  
203 (C) visitor information centers;  
204 (D) museums; and  
205 (E) related facilities;  
206 (iii) acquiring or leasing land required for or related to the purposes listed in  
207 Subsection (2)(a)(ii);  
208 (iv) mitigation costs as identified in Subsection 17-31-2(2)(d); and  
209 (v) making the annual payment of principal, interest, premiums, and necessary reserves  
210 for any or the aggregate of bonds issued to pay for costs referred to in Subsections  
211 17-31-2(2)(e) and (5)(a); and  
212 (b) for the tourism, recreation, cultural, convention, and airport facilities tax,  
213 identification of expenditures for:  
214 (i) financing tourism promotion, which means an activity to develop, encourage,  
215 solicit, or market tourism that attracts transient guests to the county, including planning,  
216 product development, and advertising;  
217 (ii) the development, operation, and maintenance of the following facilities as defined  
218 in Section 59-12-602:  
219 (A) an airport facility;  
220 (B) a convention facility;  
221 (C) a cultural facility;  
222 (D) a recreation facility; and  
223 (E) a tourist facility; and  
224 (iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(3).  
225 (3) For the transient room tax, the report described in Subsection (1) shall include a



226 breakdown of each expenditure described in Subsection (2)(a)(i), including:

227 (a) whether the expenditure was used for in-state and out-of-state promotion efforts;

228 (b) an explanation of how the expenditure targeted a cost created by tourism; and

229 (c) an accounting of the expenditure showing that the expenditure was used only for

230 costs directly related to a cost created by tourism.

231 (4) A county legislative body shall provide a copy of the report described in Subsection

232 (1) to:

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

234 Development;

235 (b) ~~[its]~~ the county's tourism tax advisory board; and

236 (c) the Office of the Legislative Fiscal Analyst.

237 Section 4. Section **59-12-302** is amended to read:

238 **59-12-302. Collection of tax -- Administrative charge.**

239 (1) Except as provided in Subsections (2), (3), and (4), the tax authorized under this  
240 part shall be administered, collected, and enforced in accordance with:

241 (a) the same procedures used to administer, collect, and enforce the tax under:

242 (i) Part 1, Tax Collection; or

243 (ii) Part 2, Local Sales and Use Tax Act; and

244 (b) Chapter 1, General Taxation Policies.

245 (2) The location of a transaction shall be determined in accordance with Sections  
246 [59-12-211](#) through [59-12-215](#).

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

249 ~~[(4) A county auditor may coordinate with the commission in determining whether to  
250 require an audit of any person that is required to remit a tax authorized under this part.]~~

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

254 (5) The commission:  
255 (a) shall distribute the revenue collected from the tax to the county within which the  
256 revenue was collected; and  
257 (b) shall retain and deposit an administrative charge in accordance with Section  
258 [59-1-306](#) from revenue the commission collects from a tax under this part.  
259 Section 5. Section **63I-1-217** is amended to read:  
260 **63I-1-217. Repeal dates, Title 17.**  
261 (1) Subsection [17-16-21\(2\)\(d\)](#) is repealed July 1, 2023.  
262 (2) Title 17, Chapter 21a, Part 3, Administration and Standards, which creates the Utah  
263 Electronic Recording Commission, is repealed July 1, 2022.  
264 (3) In relation to Section [17-31-2](#), on July 1, 2026:  
265 (a) Subsection [17-31-2\(1\)\(g\)](#), which defines "economic diversification activity," is  
266 repealed;  
267 (b) Subsection [17-31-2\(2\)\(a\)\(iii\)](#), relating to establishing and promoting an economic  
268 diversification activity, is repealed;  
269 (c) Subsection [17-31-2\(7\)\(b\)\(i\)](#) is amended to read:  
270 "(i) for a purpose described in Subsection (2)(a) and subject to the limitation described  
271 in Subsection (7)(d), the greater of:"; and  
272 (d) Subsection [17-31-2\(7\)\(d\)\(ii\)](#), relating to a limitation on the expenditure of revenue  
273 for an economic diversification activity, is repealed.  
274 (4) Subsection [17-31-5.5\(2\)\(a\)\(i\)\(E\)](#), relating to economic diversification activity, is  
275 repealed July 1, 2026.