

HOUSE BILL NO. HB0134

Wyoming tourism account funding.

Sponsored by: Joint Appropriations Committee

A BILL

for

1 AN ACT relating to sales tax; imposing a statewide
 2 assessment on sales of lodging services; providing for
 3 distribution of the assessment collected; revising the
 4 local optional lodging tax; authorizing the local optional
 5 lodging tax to be imposed by ordinance or resolution;
 6 amending a definition; amending authorized expenditures;
 7 repealing provisions providing procedures for lodging tax
 8 elections; repealing conflicting provisions; creating the
 9 Wyoming tourism account; creating the Wyoming tourism
 10 reserve and projects account; providing for implementation
 11 of the new assessment; and providing for an effective date.

12

13 *Be It Enacted by the Legislature of the State of Wyoming:*

14

15 **Section 1.** W.S. 39-15-101(a)(xv), 39-15-104 by
 16 creating a new subsection (h), 39-15-111(b)(intro) and by

1 creating a new subsection (p), 39-15-203(a)(ii)(A), (B),
2 (F)(intro) and (I), 39-15-204(a)(ii) and
3 39-15-211(a)(ii)(B)(I), (III)(intro) and by creating a new
4 subparagraph (H) are amended to read:

5

6 **39-15-101. Definitions.**

7

8 (a) As used in this article:

9

10 (xv) "Vendor" means any person engaged in ~~the~~
11 ~~business of~~ selling at retail or wholesale tangible
12 personal property, admissions or services which are subject
13 to taxation under this article. "Vendor" includes a vehicle
14 dealer as defined by W.S. 31-16-101(a)(xviii), ~~the~~
15 ~~department of state parks and cultural resources offering~~
16 ~~lodging services but excluding annual resident camping~~
17 ~~permits, the state fair board renting campsites or offering~~
18 ~~other lodging services at the state fairgrounds, a county~~
19 ~~fair board renting campsites or offering other lodging~~
20 ~~services at a county fairgrounds,~~ a remote seller to the
21 extent provided by W.S. 39-15-501 and a marketplace
22 facilitator to the extent provided by W.S. 39-15-502;

23

1 **39-15-104. Taxation rate.**

2

3 (h) In addition to the sales tax under subsections
4 (a) and (b) of this section there is imposed an assessment
5 upon the sale of lodging services of five percent (5%) as
6 follows:

7

8 (i) Three percent (3%) to be distributed as
9 provided in W.S. 39-15-111(p)(i); and

10

11 (ii) Two percent (2%) to be distributed as
12 provided in W.S. 39-15-111(p)(ii).

13

14 **39-15-111. Distribution.**

15

16 (b) Revenues earned under W.S. 39-15-104 during each
17 fiscal year shall be recognized as revenue during that
18 fiscal year for accounting purposes. Except as otherwise
19 provided in subsection (p) of this section, for all revenue
20 collected by the department under W.S. 39-15-104 the
21 department shall:

22

1 (p) All revenue collected by the department under
2 W.S. 39-15-104(h) shall be distributed as follows:

3
4 (i) The department shall credit the revenue
5 collected under W.S. 39-15-104(h)(i) as follows:

6
7 (A) Eighty percent (80%) of the average
8 annual revenue collected under this paragraph during the
9 immediately preceding five (5) years shall be deposited
10 each year in the Wyoming tourism account, which is hereby
11 created. No funds shall be expended from the account until
12 appropriated by the legislature. Funds in the account shall
13 be used for the operation of the Wyoming tourism board and
14 the Wyoming office of tourism;

15
16 (B) Any amount of revenue that exceeds the
17 amount determined under subparagraph (A) of this paragraph
18 shall be deposited as provided in this subparagraph.
19 Revenue under this subparagraph shall be transferred to the
20 Wyoming tourism reserve and projects account, which is
21 hereby created. No funds shall be expended from the account
22 until appropriated by the legislature.

23

1 (ii) The assessment revenue collected under W.S.
2 39-15-104(h)(ii) shall be distributed to each county on a
3 monthly basis in proportionate shares determined by the
4 amount of revenue collected within the county and its
5 municipalities under W.S. 39-15-104(h)(ii) in relation to
6 the entire amount collected under W.S. 39-15-104(h)(ii), to
7 be distributed as follows:

8
9 (A) If the county imposes a countywide
10 lodging tax under W.S. 39-15-204(a)(ii), the assessment
11 revenue shall be distributed in the same manner as taxes
12 collected under that paragraph are distributed under W.S.
13 39-15-211(a)(ii)(B) through (E);

14
15 (B) If the county has not imposed a
16 countywide lodging tax under W.S. 39-15-204(a)(ii), the
17 assessment revenue shall be distributed as follows:

18
19 (I) If no city or town in the county
20 has imposed a lodging tax under W.S. 39-15-204(a)(ii), the
21 assessment revenue shall be distributed to the county to be
22 expended as provided in W.S. 39-15-211(a)(ii)(B);

23

1 (II) If any city or town in the county
2 has imposed a lodging tax under W.S. 39-15-204(a)(ii),
3 assessment revenue equal to the amount of the tax imposed
4 by the city or town shall be distributed to the city or
5 town to be used as provided in W.S. 39-15-211(a)(ii)(B)
6 through (E). The remainder shall be distributed to the
7 county to be expended as provided in W.S.
8 39-15-211(a)(ii)(B).

9

10 **39-15-203. Imposition.**

11

12 (a) Taxable event. The following shall apply:

13

14 (ii) The following provisions apply to
15 imposition of the lodging excise tax under W.S.
16 39-15-204(a)(ii):

17

18 (A) The tax on lodging services authorized
19 by W.S. 39-15-204(a)(ii) shall be in addition to and not in
20 lieu of the tax authorized by W.S. 39-15-204(a)(i) and
21 (iii) if both taxes are imposed. If ~~the proposition an~~
22 ordinance or resolution to impose a tax on lodging services
23 within the county is ~~approved~~ adopted in accordance with

1 subparagraph (B) of this paragraph, a city or town shall
2 not impose a lodging tax in addition to the county wide tax
3 even though the additional tax does not exceed the
4 limitation established under W.S. 39-15-204(a)(ii);

5
6 (B) No tax shall be imposed under W.S.
7 39-15-204(a)(ii) until the ~~proposition to impose the taxes~~
8 ~~is submitted to the vote of the qualified electors of the~~
9 ~~county or of a city or town if the proposition is to impose~~
10 ~~the tax only city wide or town wide, and a majority of~~
11 ~~those casting their ballots vote in favor of imposing the~~
12 ~~taxes. If a county seeks to increase a tax rate previously~~
13 ~~approved by the qualified electors of the county, that~~
14 ~~increase shall be separately proposed and voted upon,~~
15 ~~provided that the total amount of the separate propositions~~
16 ~~is subject to the limitations specified in W.S.~~
17 ~~39-15-204(a)(ii). A county may impose both taxes authorized~~
18 ~~in W.S. 39-15-204(a)(i) and (ii), but the proposition to~~
19 ~~impose each tax shall be individually stated and voted upon~~
20 county, city or town adopts an ordinance or resolution
21 imposing the tax. Except as otherwise provided, excise
22 taxes imposed under this paragraph shall commence as
23 provided by W.S. 39-15-207(c) following the ~~election~~

1 adoption of the ordinance or resolution approving the
2 imposition of the tax. The ordinance or resolution shall
3 expire not later than four (4) years following the adoption
4 of the resolution or ordinance. The tax shall be continued
5 only upon the adoption of a new ordinance or resolution to
6 impose the tax under this subparagraph;

7
8 (F) ~~If the proposition is approved by the~~
9 ~~qualified electors~~ Following the adoption of an ordinance
10 or resolution imposing the tax, the board of county
11 commissioners, city council or town council, as
12 appropriate, shall by ordinance impose an excise tax upon
13 the sales price for lodging services. ~~Following approval of~~
14 ~~a proposition to impose the tax,~~ The county, city or town
15 shall within thirty (30) days following certification of
16 the election results the adoption of an ordinance or
17 resolution imposing the tax and annually thereafter each
18 year the tax is in effect, notify the department of revenue
19 of the ordinance or resolution imposing the lodging tax and
20 shall submit a list to the department of all persons
21 selling lodging services within their respective
22 jurisdiction. The board of county commissioners or the city
23 or town council shall adopt an ordinance for the tax

1 authorized by this paragraph. The ordinance shall include
2 the following:

3

4 (I) A provision imposing an excise tax
5 on every sale of lodging services within the county, city
6 or town at the rate ~~approved by the qualified electors~~
7 specified in the ordinance or resolution imposing the tax,
8 whichever is appropriate;

9

10 **39-15-204. Taxation rate.**

11

12 (a) In addition to the state tax imposed under W.S.
13 39-15-101 through 39-15-111 any county of the state may
14 impose the following excise taxes and any city or town may
15 impose the tax authorized by paragraph (ii) of this
16 subsection and any resort district may impose the tax
17 authorized by paragraph (v) of this subsection:

18

19 (ii) An excise tax at a rate in increments of
20 one percent (1%) not to exceed a rate of ~~four percent (4%)~~
21 two percent (2%) upon the sales price paid for lodging
22 services as defined under W.S. 39-15-101(a)(i), the primary
23 purpose of which is for local travel and tourism promotion;

1

2 **39-15-211. Distribution.**

3

4 (a) For all revenue collected by the department from
5 the taxes imposed under W.S. 39-15-204(a)(i), (ii), (v) and
6 (vi) the department shall:

7

8 (ii) For revenues collected under W.S.
9 39-15-204(a)(ii):

10

11 (B) Except as provided in subparagraph
12 (a)(ii)(C) of this section, distribute the balance on a
13 monthly basis to the treasurer of each county, city or town
14 imposing the tax in an amount equal to the amount collected
15 in each entity less the costs of collection as provided by
16 subparagraph (a)(ii)(A) of this section. Amounts
17 distributed under this subparagraph shall be used for the
18 following purposes:

19

20 (I) Except as provided by subdivision
21 (III) of this subparagraph, at least ninety percent (90%)
22 of the amount distributed shall be used to promote travel
23 and tourism within the county, city or town imposing the

1 tax. Expenditures for travel and tourism promotion shall be
2 limited to promotional materials, television and radio
3 advertising, printed advertising, digital content, social
4 media, promotion of tours, staging of events, educational
5 materials, and other specific tourism related objectives,
6 including those identified as likely to facilitate tourism
7 or enhance the visitor experience, provided that none of
8 these funds shall be spent for capital construction or
9 improvements. ~~and not more than forty thousand dollars~~
10 ~~(\$40,000.00) of these funds shall be spent for purposes of~~
11 ~~matching state general funds under the matching funds~~
12 ~~program administered by the Wyoming business council.~~ If
13 the amount is collected under a tax imposed countywide,
14 expenditures of this amount shall be made in accordance
15 with the Uniform Municipal Fiscal Procedures Act by a joint
16 powers board established pursuant to law by the county and
17 a majority of incorporated municipalities within the
18 county. Membership of the board shall include at least one
19 (1) representative appointed by each governmental entity
20 made a party to the agreement and the majority of the board
21 membership shall be comprised of representatives of the
22 travel and tourism industry;

23

1 (III) If any of the conditions
2 specified in ~~subparagraphs (D) through (G)~~ subparagraph
3 (H) of this paragraph are met, the amount collected less
4 the cost of collection as provided by subparagraph
5 (a)(ii)(A) of this section shall be distributed as follows:
6

7 (H) The amount collected shall be
8 distributed as provided in subdivision (B)(III) of this
9 paragraph if the revenue collected by the county, city or
10 town equals or exceeds the amounts as specified in
11 subdivisions (I) through (III) of this subparagraph,
12 adjusted annually for the percentage increase in the
13 Wyoming cost-of-living index for the previous fiscal year
14 as determined by the division of economic analysis of the
15 department of administration and information:
16

17 (I) If the county, city or town is not
18 imposing a lodging tax under W.S. 39-15-204(a)(ii), the
19 amount of assessment revenue received from the two percent
20 (2%) assessment on lodging services imposed pursuant to
21 W.S. 39-15-104(h)(ii) for each of the preceding three (3)
22 years equals or exceeds one million eight hundred fifty
23 thousand dollars (\$1,850,000.00) or it can reasonably be

1 presumed, based on sales tax collection records, that the
2 annual amount that will be received by the city, town or
3 county will equal or exceed one million eight hundred fifty
4 thousand dollars (\$1,850,000.00);

5
6 (II) If the county, city or town has
7 imposed a one percent (1%) lodging tax under W.S.
8 39-15-204(a)(ii), the amount of assessment revenue received
9 from that tax plus the two percent (2%) assessment on
10 lodging services imposed pursuant to W.S. 39-15-104(h)(ii)
11 for each of the preceding three (3) years equals or exceeds
12 two million seven hundred eighty thousand dollars
13 (\$2,780,000.00) or it can reasonably be presumed, based on
14 sales tax collection records, that the annual amount that
15 will be received by the city, town or county will equal or
16 exceed two million seven hundred eighty thousand dollars
17 (\$2,780,000.00);

18
19 (III) If the county, city or town has
20 imposed a two percent (2%) lodging tax under W.S.
21 39-15-204(a)(ii), the amount of assessment revenue received
22 from that tax plus the two percent (2%) assessment on
23 lodging services imposed pursuant to W.S. 39-15-104(h)(ii)

1 for each of the preceding three (3) years equals or exceeds
2 three million seven hundred thousand dollars
3 (\$3,700,000.00) or it can reasonably be presumed, based on
4 sales tax collection records, that the annual amount that
5 will be received by the city, town or county will equal or
6 exceed three million seven hundred thousand dollars
7 (\$3,700,000.00).

8

9 **Section 2.** W.S. 39-15-203(a)(ii)(C) through (E) and
10 39-15-211(a)(ii)(D) through (G) are repealed.

11

12 **Section 3.**

13

14 (a) If any city, town or county has in place a
15 lodging tax under W.S. 39-15-204(a)(ii) as of January 1,
16 2021, the current rate of the tax shall continue until the
17 next general election at which the tax would be considered
18 as provided in W.S. 39-15-203(a)(ii)(D) prior to the
19 effective date of this act. No lodging tax imposed under
20 W.S. 39-15-204(a)(ii) in excess of two percent (2%) shall
21 be continued by a county, city or town resolution after the
22 effective date of this act.

23

1 (b) Notwithstanding W.S. 39-15-104(h)(ii) as created
2 by section 1 of this act, the two percent (2%) assessment
3 on lodging services under W.S. 39-15-104(h)(ii) shall be
4 imposed as follows:

5
6 (i) If the county has in place a countywide
7 lodging tax under W.S. 39-15-204(a)(ii) as of January 1,
8 2021, the two percent (2%) assessment on lodging services
9 shall be effective in that county on the date of the next
10 general election at which the county lodging tax would be
11 considered as provided in W.S. 39-15-203(a)(ii)(D) prior to
12 the effective date of this act, subject to subsection (a)
13 of this section;

14
15 (ii) If a county does not have a countywide
16 lodging tax in place, the two percent (2%) assessment on
17 lodging services shall be effective in that county on the
18 effective date of this act, provided that if any city or
19 town in the county has imposed a lodging tax under W.S.
20 39-15-204(a)(ii), the two percent (2%) assessment on
21 lodging services shall not be effective within the
22 boundaries of the city or town until the date of the next
23 general election at which the lodging tax would be

1 considered as provided in W.S. 39-15-203(a)(ii)(D) prior to
2 the effective date of this act, subject to subsection (a)
3 of this section.

4

5 **Section 4.** This act is effective January 1, 2021.

6

7

(END)