

## SB0264S01 compared with SB0264

~~deleted text~~ shows text that was in SB0264 but was deleted in SB0264S01.

Inserted text shows text that was not in SB0264 but was inserted into SB0264S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Ralph Okerlund proposes the following substitute bill:

### OUTDOOR RECREATION GRANT PROGRAM

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ralph Okerlund**

House Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill creates the State Transient Room Tax Act and modifies provisions related to the Utah Office of Outdoor Recreation.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ imposes a state transient room tax on accommodations and related services;
- ▶ creates the Outdoor Recreation Infrastructure Account;
- ▶ distributes the revenues the state collects from the state transient room tax to the Outdoor Recreation Infrastructure Account to implement the Outdoor Recreational Infrastructure Grant Program; and
- ▶ establishes the Utah Outdoor Recreation Grant Advisory Committee.

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### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

ENACTS:

- 59-28-101, Utah Code Annotated 1953
- 59-28-102, Utah Code Annotated 1953
- 59-28-103, Utah Code Annotated 1953
- 59-28-104, Utah Code Annotated 1953
- 59-28-105, Utah Code Annotated 1953
- 59-28-106, Utah Code Annotated 1953
- 59-28-107, Utah Code Annotated 1953
- 63N-9-204, Utah Code Annotated 1953
- 63N-9-205, Utah Code Annotated 1953

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

Section 1. Section **59-28-101** is enacted to read:

#### **CHAPTER 28. STATE TRANSIENT ROOM TAX ACT**

##### **59-28-101. Title.**

This chapter is known as the "State Transient Room Tax Act."

Section 2. Section **59-28-102** is enacted to read:

##### **59-28-102. Definitions.**

As used in this chapter:

- (1) "Agreement" means the same as that term is defined in Section 59-12-102.
- (2) "Certified service provider" means the same as that term is defined in Section 59-12-102.
- (3) "Model 2 seller" means the same as that term is defined in Section 59-12-102.
- (4) "Purchaser" means the same as that term is defined in Section 59-12-102.
- (5) "Sales price" means the same as that term is defined in Section 59-12-102.
- (6) "Seller" means the same as that term is defined in Section 59-12-102.

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Section 3. Section **59-28-103** is enacted to read:

**59-28-103. Imposition -- Rate -- Revenue distribution.**

(1) Subject to the other provisions of this chapter, the state shall impose a tax on the transactions described in Subsection 59-12-103(1)(i) at a rate of ~~.130%~~32%.

(2) The tax imposed under this chapter is in addition to any other taxes imposed on the transactions described in Subsection 59-12-103(1)(i).

(3) The commission shall deposit the revenue the state collects from the tax under this chapter into the Outdoor Recreation Infrastructure Account created in Section 63N-9-205 to fund the Outdoor Recreational Infrastructure Grant Program created in Section 63N-9-202.

Section 4. Section **59-28-104** is enacted to read:

**59-28-104. Collection of tax.**

(1) Except as provided in Subsection (2), the commission shall administer, collect, and enforce a tax under this chapter in accordance with:

(a) Chapter 1, General Taxation Policies; and

(b) the same procedures used to administer, collect, and enforce the tax under Chapter 12, Part 1, Tax Collection.

(2) A tax under this chapter is not subject to Section 59-12-107.1 or 59-12-123.

~~(3)~~ (3) A seller required to collect a tax under this chapter may retain each month 6% of any amounts the seller is required to remit to the commission.

~~(3)~~(4) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this chapter.

Section 5. Section **59-28-105** is enacted to read:

**59-28-105. Seller or certified service provider reliance on commission information.**

A seller or certified service provider is not liable for failing to collect a tax at a tax rate imposed under this chapter if the seller's or certified service provider's failure to collect the tax is as a result of the seller's or certified service provider's reliance on incorrect data provided by the commission in a database created by the commission:

(1) containing tax rates or boundaries regarding a tax under this chapter; or

(2) indicating the taxability of transactions described in Subsection 59-12-103(1)(i).

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Section 6. Section **59-28-106** is enacted to read:

**59-28-106. Certified service provider or model 2 seller reliance on commission certified software.**

(1) Except as provided in Subsection (2) and subject to Subsection (4), a certified service provider or model 2 seller is not liable for failing to collect a tax required under this chapter if:

(a) the certified service provider or model 2 seller relies on software the commission certifies; and

(b) the certified service provider's or model 2 seller's failure to collect a tax required under this chapter is as a result of the seller's or certified service provider's reliance on incorrect data:

(i) provided by the commission; or

(ii) in the software the commission certifies.

(2) The relief from liability described in Subsection (1) does not apply if a certified service provider or model 2 seller incorrectly classifies an item or transaction into a product category the commission certifies.

(3) If the taxability of a product category is incorrectly classified in software the commission certifies, the commission shall:

(a) notify a certified service provider or model 2 seller of the incorrect classification of the taxability of a product category in software the commission certifies; and

(b) state in the notice required by Subsection (3)(a) that, if the certified service provider or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice, the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this chapter on the incorrectly classified product category.

(4) If a certified service provider or model 2 seller fails to correct the taxability of an item or transaction within 10 days after the day on which the certified service provider or model 2 seller receives the notice described in Subsection (3), the certified service provider or model 2 seller is liable for failing to collect the correct amount of tax under this chapter on the item or transaction.

Section 7. Section **59-28-107** is enacted to read:

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### **59-28-107. Purchaser relief from liability.**

(1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this chapter or an underpayment if:

(i) the purchaser's seller or certified service provider relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement;

or

(ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary;

(C) on a taxing jurisdiction; or

(D) in the taxability matrix the commission provides in accordance with the agreement.

(b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under Section 59-1-401 for failure to pay a tax due under this chapter or an underpayment if the purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on incorrect data provided by the commission is as a result of conduct that is:

(i) fraudulent;

(ii) intentional; or

(iii) willful.

(2) In addition to the relief from a penalty described in Subsection (1), a purchaser is not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this chapter or an underpayment if:

(a) the purchaser's seller or certified service provider relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

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(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement;

and

(B) with respect to a term in the library of definitions that is listed as taxable or exempt, included in or excluded from "sales price," or included in or excluded from a definition; or

(b) the purchaser, regardless of whether the purchaser holds a direct payment permit in accordance with Section 59-12-107.1, relies on:

(i) incorrect data provided by the commission:

(A) on a tax rate;

(B) on a boundary; or

(C) on a taxing jurisdiction; or

(ii) an erroneous classification by the commission:

(A) in the taxability matrix the commission provides in accordance with the agreement;

and

(B) with respect to a term in the library of definitions that is listed as taxable or exempt, included in or excluded from "sales price," or included in or excluded from a definition.

Section 8. Section **63N-9-204** is enacted to read:

**63N-9-204. Utah Outdoor Recreation Grant Advisory Committee -- Membership -- Duties -- Expenses.**

(1) As used in this section, "advisory committee" means the Utah Outdoor Recreation Grant Advisory Committee created in Subsection (2).

(2) There is created in the office the Utah Outdoor Recreation Grant Advisory Committee, composed of the following 14 members knowledgeable about outdoor recreation activities, youth programs, or tourism-based economic development:

(a) five members representing state or federal government as follows:

(i) the director;

(ii) the director of the Division of Parks and Recreation created in Section 79-4-201 or the director's designee;

(iii) one member who is an employee of the office engaged in the duties described in

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Section 63N-7-201, appointed by the executive director:

(iv) one member representing the Bureau of Land Management, appointed by the executive director; and

(v) one member representing the National Park Service Rivers, Trails and Conservation Assistance Program, appointed by the executive director;

(b) nine members representing local government, the private sector, or the public, appointed by the executive director as follows:

(i) one member representing municipal government, recommended by the Utah League of Cities and Towns;

(ii) one member representing county government, recommended by the Utah Association of Counties;

(iii) two members representing the outdoor industry;

(iv) one member representing the Utah Tourism Industry Association;

(v) one member representing the Utah Hotel and Lodging Association;

(vi) one member representing the health care industry;

(vii) one member representing multi-ability groups or programs; and

(viii) one member representing a university outdoor recreation, parks, or tourism department; and

(c) one of the members appointed under Subsection (2)(b)(i) or (ii) shall represent rural interests.

(3) The advisory committee shall advise and make recommendations to the office regarding infrastructure grants.

(4) (a) Except as required by Subsection (4)(b), as terms of appointed advisory committee members expire, the executive director shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of appointed advisory committee members are staggered so that approximately half of the appointed advisory committee members are appointed every two years.

(5) The director shall serve as chair of the advisory committee.

(6) The advisory committee shall elect annually a vice chair from the advisory

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committee's members.

(7) When a vacancy occurs in the membership for any reason, the executive director shall appoint the replacement for the unexpired term.

(8) A majority of the advisory committee constitutes a quorum for the purpose of conducting advisory committee business and the action of a majority of a quorum constitutes the action of the advisory committee.

(9) The office shall provide administrative staff support for the advisory committee.

(10) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(b) may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

(11) The advisory committee, as a governmental entity, has all the rights, privileges, and immunities of a governmental entity of the state and the advisory committee meetings are subject to Title 52, Chapter 4, Open and Public Meetings Act.

Section 9. Section **63N-9-205** is enacted to read:

**63N-9-205. Utah Outdoor Recreation Infrastructure Account -- Uses -- Costs.**

(1) There is created ~~}{a restricted account within the General Fund}~~~~}{an expendable special revenue fund}~~ known as the "Outdoor Recreation Infrastructure Account," which ~~}{may be used}~~~~}{the office shall use}~~ to ~~}{implement and administer}~~~~}{fund}~~ the Outdoor Recreational Infrastructure Grant Program created in Section 63N-9-202.

(2) The ~~}{restricted}~~ account consists of:

(a) distributions to the account under Section 59-28-103;

(b) interest earned on the ~~}{restricted}~~ account;

(c) appropriations made by the Legislature; and

(d) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The office shall, with the advice of the Utah Outdoor Recreation Grant Advisory Committee created in Section 63N-9-204, administer the ~~}{restricted}~~ account.



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(4) The cost of administering the ~~restricted~~ account shall be paid from money in the ~~restricted~~ account.

(5) Interest accrued from investment of money in the ~~restricted~~ account shall remain in the ~~restricted~~ account.

Section 10. **Effective date.**

This bill takes effect on July 1, 2017.

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**Legislative Review Note**

**~~Office of Legislative Research and General Counsel†~~**