

Representative Evan L. Olsen proposes to substitute the following bill:

**COUNTY OPTION SALES AND USE TAX FOR
AGRICULTURAL LAND, OPEN LAND, AND
RECREATIONAL FACILITIES**

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Evan L. Olsen

AN ACT RELATING TO REVENUE AND TAXATION; PROVIDING DEFINITIONS;
AUTHORIZING A COUNTY TO IMPOSE A SALES AND USE TAX FOR AGRICULTURAL
LAND, OPEN LAND, OR RECREATIONAL FACILITIES; ESTABLISHING REQUIREMENTS
FOR THE IMPOSITION AND REPEAL OF THE TAX; REQUIRING A COUNTY TO
INCLUDE UNUSED SALES AND USE TAX REVENUES AS PROPERTY TAX REVENUES;
PROVIDING FOR THE DISTRIBUTION OF THE TAX; PROVIDING THE PURPOSES FOR
WHICH THE TAX REVENUES MAY BE USED; REQUIRING COUNTIES TO ESTABLISH
ADVISORY BOARDS TO PROVIDE FINDINGS AND RECOMMENDATIONS ON
EXPENDING CERTAIN SALES AND USE TAX REVENUES; PROVIDING PROCEDURES
FOR ADMINISTERING THE TAX; MAKING TECHNICAL CHANGES; AND PROVIDING
AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

ENACTS:

59-12-1401, Utah Code Annotated 1953

59-12-1402, Utah Code Annotated 1953

59-12-1403, Utah Code Annotated 1953

59-12-1404, Utah Code Annotated 1953

59-12-1405, Utah Code Annotated 1953

59-12-1406, Utah Code Annotated 1953

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

27 Section 1. Section **59-12-1401** is enacted to read:

28 **Part 14. County Option Sales and Use Tax for Agricultural Land,**
29 **Open Land, and Recreational Facilities**

30 **59-12-1401. Title -- Definitions.**

31 (1) This part is known as the "County Option Sales and Use Tax for Agricultural Land,
32 Open Land, and Recreational Facilities Act."

33 (2) As used in this part:

34 (a) "Agricultural land" has the same meaning as "land in agricultural use" under Section
35 59-2-502.

36 (b) "Commission processing period" means a time period:

37 (i) beginning on the day on which a county notifies the commission of the county's intent
38 to repeal a tax under this part;

39 (ii) ending 30 calendar days after the day on which a county notifies the commission of
40 the county's intent to repeal a tax under this part; and

41 (iii) during which the commission performs procedures in preparation for a tax under this
42 part to be repealed.

43 (c) "Open land" means land that is:

44 (i) preserved predominantly in a natural, open, and undeveloped condition; and

45 (ii) used for:

46 (A) wildlife habitat;

47 (B) cultural or recreational use;

48 (C) watershed protection; or

49 (D) another use consistent with the preservation of the land in a predominantly natural,
50 open, and undeveloped condition.

51 (d) "Recreational facility" is as defined in Section 59-12-702.

52 (e) "Unused sales and use tax revenues" means any revenues:

53 (i) generated by a tax under this part; and

54 (ii) that the county has not expended for a purpose described in Subsections
55 59-12-1404(5)(a) or (b).

56 Section 2. Section **59-12-1402** is enacted to read:

57 59-12-1402. Base -- Rate -- Imposition requirements -- Administration -- Repeal.

58 (1) In addition to any other tax authorized by this chapter, a county may impose a tax as
59 provided in this part:

60 (a) of 1/8%; and

61 (b) to be used as provided in Section 59-12-1404.

62 (2) A county legislative body imposing a tax under this part shall:

63 (a) before imposing the tax, obtain approval from a majority of the:

64 (i) members of the county legislative body; and

65 (ii) registered voters of the county voting on the proposition as provided in Section
66 59-12-1403;

67 (b) (i) enact an ordinance imposing the tax; and

68 (ii) notify the commission at least 30 days prior to the day on which the ordinance
69 imposing the tax becomes effective;

70 (c) impose the tax:

71 (i) upon the sales and uses:

72 (A) described in Subsection 59-12-103(1), subject to the exemptions provided for in
73 Section 59-12-104; and

74 (B) made within the county, including sales and uses made within municipalities in the
75 county;

76 (ii) beginning on the first day of:

77 (A) January;

78 (B) April;

79 (C) July; or

80 (D) October; and

81 (iii) no later than 90 days after the day on which the county legislative body meets the
82 requirements of Subsection (2)(a); and

83 (d) within 30 calendar days after the day on which the county imposes a tax under this part,
84 enact an ordinance:

85 (i) (A) creating a fund to deposit all of the revenues generated by the tax under this part;
86 and

87 (B) providing for the administration of the fund described in Subsection (2)(d)(i)(A); and

88 (ii) creating a board to make findings and recommendations to the county legislative body
89 as provided in Section 59-12-1405 or 59-12-1406.

90 (3) Except as provided in this section, a county shall impose and the commission shall
91 administer a tax under this part in the same manner as a tax imposed under Part 2, The Local Sales
92 and Use Tax Act, except that the tax is not subject to:

93 (a) the distribution provisions of Subsections 59-12-205(2) and 59-12-205(3); and

94 (b) Subsection 59-12-205(4).

95 (4) If, at any time after the day on which a county imposes a tax under this part, the county
96 does not expend an amount of revenues generated by the tax for a purpose described in Subsection
97 59-12-1404(5)(a) for three consecutive years, the county shall:

98 (i) repeal the tax beginning on the first day of the calendar quarter immediately following
99 the last day of the commission processing period; and

100 (ii) notify the commission of the repeal of the tax at least 30 calendar days before the day
101 on which the county repeals the tax.

102 (5) If a county repeals a tax under Subsection (4), for purposes of calculating the county's
103 certified tax rate under Section 59-2-924, the county shall:

104 (a) for the calendar year beginning immediately after the county repeals the tax, include
105 as property tax revenues any unused sales and use tax revenues up to an amount equal to the
106 amount of property tax revenues the county is allowed to collect for a calendar year under the
107 county's certified tax rate as provided in Section 59-2-924; and

108 (b) for calendar years after the calendar year described in Subsection (5)(a), include as
109 property tax revenues any unused sales and use tax revenues:

110 (i) up to an amount equal to the amount of property tax revenues the county is allowed to
111 collect for a calendar year under the county's certified tax rate as provided in Section 59-2-924; and

112 (ii) until the county includes all unused sales and use tax revenues as property tax
113 revenues.

114 Section 3. Section **59-12-1403** is enacted to read:

115 **59-12-1403. Election requirements.**

116 (1) Beginning on July 1, 1999, a county may obtain approval under Subsection
117 59-12-1402(2)(a)(ii) to impose a tax under this part by submitting to the ballot a proposition:

118 (a) of whether to impose a tax under this part; and

119 (b) at a:
120 (i) municipal general election that meets the requirements of Subsection (2)(a); or
121 (ii) regular general election that meets the requirements of Subsection (2)(b).
122 (2) (a) A county holding a municipal general election under Subsection (1) shall hold the
123 election according to the procedures and requirements of Section 20A-1-202 and Title 20A,
124 Election Code.

125 (b) A county holding a regular general election under Subsection (1) shall hold the election
126 according to the procedures and requirements of Title 20A, Election Code.

127 Section 4. Section **59-12-1404** is enacted to read:

128 **59-12-1404. Distribution of tax -- Expenditure of revenues -- Board.**

129 (1) Except as provided in Subsections (2)(b) and (3)(b), revenues generated by a tax under
130 this part shall be distributed to the county in which the revenues were generated.

131 (2) (a) The county legislative body of a county of the first or second class shall expend
132 50% of the revenues generated by a tax under this part as provided in Subsection (5)(a).

133 (b) (i) Notwithstanding Subsection (1), the county legislative body of a county of the first
134 or second class shall allocate 50% of the revenues generated by a tax under this part as provided
135 in Subsection (4).

136 (ii) The revenues described in Subsection (2)(b)(i) shall be expended:

137 (A) as provided in Subsection (5)(b); and

138 (B) (I) by a city described in Subsection (4);

139 (II) by a town described in Subsection (4); or

140 (III) except as provided in Subsection (6), by a county for use within an unincorporated
141 area of the county described in Subsection (4).

142 (3) (a) The county legislative body of a county of the third, fourth, fifth, or sixth class shall
143 expend 90% of the revenues generated by a tax under this part as provided in Subsection (5)(a).

144 (b) (i) Notwithstanding Subsection (1), the county legislative body of a county of the third,
145 fourth, fifth, or sixth class shall allocate 10% of the revenues generated by a tax under this part as
146 provided in Subsection (4).

147 (ii) The revenues described in Subsection (3)(b)(i) shall be expended:

148 (A) as provided in Subsection (5)(b); and

149 (B) (I) by a city described in Subsection (4);

150 (II) by a town described in Subsection (4); or
151 (III) except as provided in Subsection (6), by a county for use within an unincorporated
152 area of the county described in Subsection (4).

153 (4) The revenues described in Subsections (2)(b)(i) and (3)(b)(i) shall be allocated:

154 (a) to each:

155 (i) city located within the county;

156 (ii) town located within the county; and

157 (iii) unincorporated area of the county; and

158 (b) in the ratio that the total population of each city, town, or unincorporated area
159 described in Subsection (4)(a) bears to the total population of all of the cities, towns, and
160 unincorporated areas described in Subsection (4)(a).

161 (5) (a) Subject to Subsections (6) and (8), a county expending the revenues described in
162 Subsections (2)(a) and (3)(a) shall expend the revenues:

163 (i) to establish conservation easements as provided in Title 57, Chapter 18, Land
164 Conservation Easement Act, to protect agricultural land;

165 (ii) for watershed protection;

166 (iii) for per diem and expenses for members of a county board as provided in Section
167 59-12-1405 or 59-12-1406; or

168 (iv) for a combination of the purposes described in Subsections (5)(a)(i) through (iii).

169 (b) Subject to Subsections (6) and (8), a county, city, or town expending the revenues
170 described in Subsections (2)(b) and (3)(b) shall expend the revenues in accordance with the
171 following priorities:

172 (i) the first priority is watershed protection;

173 (ii) the second priority is:

174 (A) to establish conservation easements as provided in Title 57, Chapter 18, Land
175 Conservation Easement Act, to protect open land; or

176 (B) except as provided in Subsection (7), for another use consistent with the preservation
177 of open land in a predominantly natural, open, and undeveloped condition;

178 (iii) the third priority is for the planning, development, or construction of recreational
179 facilities; and

180 (iv) a county, city, or town may expend the revenues for a combination of the priorities

181 described in Subsections (5)(b)(i) through (iii).

182 (6) Notwithstanding Subsections (2)(b)(ii)(B)(III) and (3)(b)(ii)(B)(III), a county, city, or
183 town may expend an amount of revenues generated by a tax under this part for use within a county,
184 city, or town that is located outside the boundaries of the county, city, or town if the county, city,
185 or town receiving the revenues agrees to the expenditure.

186 (7) (a) Notwithstanding Subsection (5)(b)(ii)(B) and except as provided in Subsection
187 (7)(b), a county, city, or town may not expend an amount of revenues generated by a tax under this
188 part to purchase a fee interest in real property in order to preserve open land.

189 (b) Notwithstanding Subsection (7)(a) and subject to Subsections (7)(c) and (d), a county,
190 city, or town may expend an amount of revenues generated by a tax under this part to purchase a
191 fee interest in real property to preserve open land if:

192 (i) the parcel to be purchased is not more than ten acres in size; and

193 (ii) real property roughly equivalent in size is contemporaneously transferred to private
194 ownership from the county, city, or town that purchased the fee interest in real property.

195 (c) Eminent domain may not be used or threatened in connection with any purchase under
196 this Subsection (7).

197 (d) A parcel of real property larger than ten acres in size may not be divided into separate
198 parcels smaller than ten acres each to meet the requirements of Subsection (7)(b).

199 (8) Notwithstanding Subsection (5)(a) or (b), a county may not:

200 (a) expend an amount of revenues generated by a tax under this part to pay debt service
201 on a bond or bond anticipation note;

202 (b) pledge an amount of revenues generated by a tax under this part as a source of payment
203 for a bond or bond anticipation note; or

204 (c) expend an amount of revenues generated by a tax under this part to pay for a cost
205 related to the authorization or issuance of a bond or bond anticipation note, including:

206 (i) an engineering fee;

207 (ii) a legal fee;

208 (iii) a fiscal adviser's fee;

209 (iv) interest that accrues on a bond or bond anticipation note; or

210 (v) a cost similar to a cost described in Subsection (8)(c)(i) through (iv).

211 Section 5. Section **59-12-1405** is enacted to read:

212 59-12-1405. County boards for counties of the first or second class.

213 (1) The county legislative body of a county of the first or second class shall, as provided
214 in Section 59-12-1402, enact an ordinance establishing a board to make findings and
215 recommendations to the county legislative body on expending the revenues generated under
216 Subsection 59-12-1404(2)(a) for the purposes described in Subsection 59-12-1404(5)(a).

217 (2) (a) Subject to Subsection (2)(b), the board shall consist of 11 members appointed by
218 the county legislative body as follows:

219 (i) three members shall be:

220 (A) members of the:

221 (I) county legislative body; or

222 (II) county executive body; or

223 (B) the county executive; or

224 (C) a combination of the persons described in Subsections (2)(a)(i)(A) and (B);

225 (ii) three members shall be:

226 (A) mayors of a city or town located within the county;

227 (B) members of a municipal legislative body of a city or town located within the county;

228 or

229 (C) a combination of the persons described in Subsections (2)(a)(ii)(A) and (B);

230 (iii) two members shall represent agricultural interests as determined by the county
231 legislative body;

232 (iv) one member shall represent real estate interests as determined by the county legislative
233 body;

234 (v) one member shall be a builder as determined by the county legislative body; and

235 (vi) one member shall represent conservation interests as determined by the county
236 legislative body.

237 (b) The county legislative body shall select the members described in Subsections
238 (2)(a)(iii) through (v) from names submitted as follows:

239 (i) (A) each of the local soil conservation districts created under Title 17A, Chapter 3, Part
240 8, Soil Conservation Districts, that are located within the county shall submit four or more names
241 to the county legislative body; and

242 (B) other agricultural organizations that are located within the county may submit one or

243 more names to the county legislative body;

244 (ii) (A) the local Board of Realtors representing the county shall submit two or more
245 names to the county legislative body; and

246 (B) other organizations representing real estate interests may submit one or more names
247 to the county legislative body;

248 (iii) (A) the local Home Builders Association representing the county shall submit two or
249 more names to the county legislative body; and

250 (B) other organizations representing home building interests may submit one or more
251 names to the county legislative body; and

252 (iv) organizations representing conservation interests may submit one or more names to
253 the county legislative body.

254 (3) The ordinance establishing the board shall:

255 (a) provide for the terms of the members;

256 (b) provide for the method of appointing members to the board;

257 (c) provide a procedure for filling vacancies and removing members from office;

258 (d) provide for the appointment of a chair of the board; and

259 (e) contain other provisions relating to the organization and procedure of the board.

260 (4) (a) (i) Members who are not government employees shall receive no compensation or
261 benefits for their services, but may receive per diem and expenses incurred in the performance of
262 the member's official duties at the rates established by the Division of Finance under Sections
263 63A-3-106 and 63A-3-107.

264 (ii) Members may decline to receive per diem and expenses for their service.

265 (b) (i) Local government members who do not receive salary, per diem, or expenses from
266 the entity that they represent for their service may receive per diem and expenses incurred in the
267 performance of their official duties at the rates established by the Division of Finance under
268 Sections 63A-3-106 and 63A-3-107.

269 (ii) Local government members may decline to receive per diem and expenses for their
270 service.

271 Section 6. Section **59-12-1406** is enacted to read:

272 **59-12-1406. County boards for counties of the third, fourth, fifth, or sixth class.**

273 (1) The county legislative body of a county of the third, fourth, fifth, or sixth class shall,

274 as provided in Section 59-12-1402, enact an ordinance establishing a board to make findings and
275 recommendations to the county legislative body on expending the revenues generated under
276 Subsection 59-12-1404(3)(a) for the purposes described in Subsection 59-12-1404(5)(a).

277 (2) (a) Subject to Subsection (2)(b), the board shall consist of seven members appointed
278 by the county legislative body as follows:

279 (i) five members shall represent agricultural interests as determined by the county
280 legislative body;

281 (ii) one member shall be a:

282 (A) mayor of a city or town located within the county; or

283 (B) member of a municipal legislative body of a city or town located within the county;

284 and

285 (iii) one member shall be:

286 (A) a member of the:

287 (I) county legislative body; or

288 (II) county executive body; or

289 (B) the county executive.

290 (b) The county legislative body shall select the members described in Subsections (2)(a)(i)
291 from names submitted as follows:

292 (i) each of the local soil conservation districts created under Title 17A, Chapter 3, Part 8,
293 Soil Conservation Districts, that are located within the county shall submit ten or more names to
294 the county legislative body; and

295 (ii) other agricultural organizations that are located within the county may submit one or
296 more names to the county legislative body.

297 (3) The ordinance establishing the board shall:

298 (a) provide for the terms of the members;

299 (b) provide for the method of appointing members to the board;

300 (c) provide a procedure for filling vacancies and removing members from office;

301 (d) provide for the appointment of a chair of the board; and

302 (e) contain other provisions relating to the organization and procedure of the board.

303 (4) (a) (i) Members who are not government employees shall receive no compensation or
304 benefits for their services, but may receive per diem and expenses incurred in the performance of

305 the member's official duties at the rates established by the Division of Finance under Sections
306 63A-3-106 and 63A-3-107.

307 (ii) Members may decline to receive per diem and expenses for their service.

308 (b) (i) Local government members who do not receive salary, per diem, or expenses from
309 the entity that they represent for their service may receive per diem and expenses incurred in the
310 performance of their official duties at the rates established by the Division of Finance under
311 Sections 63A-3-106 and 63A-3-107.

312 (ii) Local government members may decline to receive per diem and expenses for their
313 service.

314 Section 7. **Effective date.**

315 This act takes effect on July 1, 1999.