

1 **COUNTY OPTION SALES AND USE TAX FOR HIGHWAYS**
2 **AND PUBLIC TRANSIT AMENDMENTS**

3 2016 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Jack R. Draxler**

6 Senate Sponsor: Kevin T. Van Tassell

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Sales and Use Tax Act by amending provisions relating to the
11 county option sales and use tax for highways and public transit.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ amends the distribution of revenue collected from the local option sales and use tax
- 15 for highways and public transit; and
- 16 ▶ makes technical and conforming changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **51-2a-202**, as last amended by Laws of Utah 2015, Chapter 275

24 **59-12-2219**, as enacted by Laws of Utah 2015, Chapter 275

25 **63I-1-259**, as last amended by Laws of Utah 2015, Chapters 224, 275, and 467

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

28 Section 1. Section **51-2a-202** is amended to read:

29 **51-2a-202. Reporting requirements.**

30 (1) The governing board of each entity required to have an audit, review, compilation,
31 or fiscal report shall ensure that the audit, review, compilation, or fiscal report is:

32 (a) made at least annually; and

33 (b) filed with the state auditor within six months of the close of the fiscal year of the
34 entity.

35 (2) If the political subdivision, interlocal organization, or other local entity receives
36 federal funding, the audit, review, or compilation shall be performed in accordance with both
37 federal and state auditing requirements.

38 (3) If a political subdivision receives revenue from a sales and use tax imposed under
39 Section 59-12-2219, the political subdivision shall identify the amount of revenue the political
40 subdivision budgets for transportation and verify compliance with Subsection
41 59-12-2219[~~(10)~~](13) in the audit, review, compilation, or fiscal report.

42 Section 2. Section 59-12-2219 is amended to read:

43 **59-12-2219. County option sales and use tax for highways and public transit --**
44 **Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant**
45 **existing budgeted transportation revenue.**

46 (1) As used in this section:

47 (a) "Class B road" means the same as that term is defined in Section 72-3-103.

48 (b) "Class C road" means the same as that term is defined in Section 72-3-104.

49 (c) "Eligible political subdivision" means a political subdivision that:

50 (i) (A) on May 12, 2015, provides public transit services; or

51 (B) after May 12, 2015, provides written notice to the commission in accordance with

52 Subsection (10)(b) that it intends to provide public transit service within a county;

53 (ii) is not a public transit district; and

54 (iii) is not annexed into a public transit district.

55 (d) "Public transit district" means a public transit district organized under Title 17B,
56 Chapter 2a, Part 8, Public Transit District Act.

57 (2) Subject to the other provisions of this part, a county legislative body may impose a

58 sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the
59 county, including the cities and towns within the county.

60 (3) The commission shall distribute sales and use tax revenue collected under this
61 section as provided in Subsections (4) through ~~[(7)]~~ (10).

62 (4) If the entire boundary of a county that imposes a sales and use tax under this section
63 is annexed into a single public transit district, the commission shall distribute the sales and use
64 tax revenue collected within the county as follows:

65 (a) .10% shall be transferred to the public transit district in accordance with Section
66 59-12-2206;

67 (b) .10% shall be distributed as provided in Subsection ~~[(6)]~~ (8); and

68 (c) .05% shall be distributed to the county legislative body.

69 (5) If the entire boundary of a ~~[county that imposes a sales and use tax under this~~
70 ~~section is not annexed into a single public transit district, or if there is not a public transit~~
71 ~~district within the county,]~~ county that imposes a sales and use tax under this section is not
72 annexed into a single public transit district, but a city or town within the county is annexed into
73 a single public transit district that also has a county of the first class annexed into the same
74 public transit district, the commission shall distribute the sales and use tax revenue collected
75 within the county as follows:

76 (a) for a city or town within the county that is annexed into a single public transit
77 district, the commission shall distribute the sales and use tax revenue collected within that city
78 or town as follows:

79 (i) .10% shall be transferred to the public transit district in accordance with Section
80 59-12-2206;

81 (ii) .10% shall be distributed as provided in Subsection ~~[(6)]~~ (8); and

82 (iii) .05% shall be distributed to the county legislative body;

83 (b) for an eligible political subdivision within the county, the commission shall
84 distribute the sales and use tax revenue collected within that eligible political subdivision as
85 follows:

86 (i) .10% shall be transferred to the eligible political subdivision in accordance with
87 Section [59-12-2206](#);

88 (ii) .10% shall be distributed as provided in Subsection ~~[(6)]~~ (8); and

89 (iii) .05% shall be distributed to the county legislative body; and

90 (c) the commission shall distribute the sales and use tax revenue, except for the sales
91 and use tax revenue described in Subsections (5)(a) and (b), as follows:

92 (i) .10% shall be distributed as provided in Subsection ~~[(6)]~~ (8); and

93 (ii) .15% shall be distributed to the county legislative body.

94 (6) For a county not described in Subsection (4) or (5), if the entire boundary of a
95 county of the first or second class that imposes a sales and use tax under this section is not
96 annexed into a single public transit district, or if there is not a public transit district within the
97 county, the commission shall distribute the sales and use tax revenue collected within the
98 county as follows:

99 (a) for a city or town within the county that is annexed into a single public transit
100 district, the commission shall distribute the sales and use tax revenue collected within that city
101 or town as follows:

102 (i) .10% shall be transferred to the public transit district in accordance with Section
103 [59-12-2206](#);

104 (ii) .10% shall be distributed as provided in Subsection (8); and

105 (iii) .05% shall be distributed to the county legislative body;

106 (b) for an eligible political subdivision within the county, the commission shall
107 distribute the sales and use tax revenue collected within that eligible political subdivision as
108 follows:

109 (i) .10% shall be transferred to the eligible political subdivision in accordance with
110 Section [59-12-2206](#);

111 (ii) .10% shall be distributed as provided in Subsection (8); and

112 (iii) .05% shall be distributed to the county legislative body; and

113 (c) the commission shall distribute the sales and use tax revenue, except for the sales

114 and use tax revenue described in Subsections (6)(a) and (b), as follows:

115 (i) .10% shall be distributed as provided in Subsection (8); and

116 (ii) .15% shall be distributed to the county legislative body.

117 (7) For a county not described in Subsection (4) or (5), if the entire boundary of a

118 county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this

119 section is not annexed into a single public transit district, or if there is not a public transit

120 district within the county, the commission shall distribute the sales and use tax revenue

121 collected within the county as follows:

122 (a) for a city or town within the county that is annexed into a single public transit

123 district, the commission shall distribute the sales and use tax revenue collected within that city

124 or town as follows:

125 (i) .10% shall be distributed as provided in Subsection (8);

126 (ii) .10% shall be distributed as provided in Subsection (9); and

127 (iii) .05% shall be distributed to the county legislative body;

128 (b) for an eligible political subdivision within the county, the commission shall

129 distribute the sales and use tax revenue collected within that eligible political subdivision as

130 follows:

131 (i) .10% shall be distributed as provided in Subsection (8);

132 (ii) .10% shall be distributed as provided in Subsection (9); and

133 (iii) .05% shall be distributed to the county legislative body; and

134 (c) the commission shall distribute the sales and use tax revenue, except for the sales

135 and use tax revenue described in Subsections (7)(a) and (b), as follows:

136 (i) .10% shall be distributed as provided in Subsection (8); and

137 (ii) .15% shall be distributed to the county legislative body.

138 [~~(6)~~] (8) (a) Subject to Subsection [~~(6)~~] (8)(b), the commission shall make the

139 distributions required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), [~~and~~] (5)(c)(i), (6)(a)(ii),

140 (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) as follows:

141 (i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),

142 ~~[and]~~ (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A)
143 within the counties that impose a tax under this section shall be distributed to the
144 unincorporated areas, cities, and towns within those counties on the basis of the percentage that
145 the population of each unincorporated area, city, or town bears to the total population of all of
146 the counties that impose a tax under this section; and

147 (ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
148 ~~[and]~~ (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i), (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A)
149 within the counties that impose a tax under this section shall be distributed to the
150 unincorporated areas, cities, and towns within those counties on the basis of the location of the
151 transaction as determined under Sections [59-12-211](#) through [59-12-215](#).

152 (b) (i) Population for purposes of this Subsection ~~[(6)]~~ (8) shall be determined on the
153 basis of the most recent official census or census estimate of the United States Census Bureau.

154 (ii) If a needed population estimate is not available from the United States Census
155 Bureau, population figures shall be derived from an estimate from the Utah Population
156 Estimates Committee created by executive order of the governor.

157 (9) (a) (i) Subject to the requirements in Subsections (9)(b) and (c), a county legislative
158 body:

159 (A) for a county that obtained approval from a majority of the county's registered
160 voters voting on the imposition of a sales and use tax under this section prior to May 10, 2016,
161 may, in consultation with any cities, towns, or eligible political subdivisions within the county,
162 and in compliance with the requirements for changing an allocation under Subsection (9)(e),
163 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
164 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
165 public transit district or an eligible political subdivision; or

166 (B) for a county that obtains approval from a majority of the county's registered voters
167 voting on the imposition of a sales and use tax under this section on or after May 10, 2016,
168 shall, in consultation with any cities, towns, or eligible political subdivisions within the county,
169 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying

170 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
171 public transit district or an eligible political subdivision.

172 (ii) If a county described in Subsection (9)(a)(i)(A) does not allocate the revenue under
173 Subsection (7)(a)(ii) or (7)(b)(ii) in accordance with Subsection (9)(a)(i)(A), the commission
174 shall distribute 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to:

175 (A) a public transit district for a city or town within the county that is annexed into a
176 single public transit district; or

177 (B) an eligible political subdivision within the county.

178 (b) If a county legislative body allocates the revenue as described in Subsection
179 (9)(a)(i), the county legislative body shall allocate not less than 25% of the revenue under
180 Subsection (7)(a)(ii) or (7)(b)(ii) to:

181 (i) a public transit district for a city or town within the county that is annexed into a
182 single public transit district; or

183 (ii) an eligible political subdivision within the county.

184 (c) Notwithstanding Section [59-12-2208](#), the opinion question required by Section
185 [59-12-2208](#) shall state the allocations the county legislative body makes in accordance with this
186 Subsection (9).

187 (d) The commission shall make the distributions required by Subsection (7)(a)(ii) or
188 (7)(b)(ii) as follows:

189 (i) the percentage specified by a county legislative body shall be distributed in
190 accordance with a resolution adopted by a county legislative body under Subsection (9)(a) to an
191 eligible political subdivision or a public transit district within the county; and

192 (ii) except as provided in Subsection (9)(a)(ii), if a county legislative body allocates
193 less than 100% of the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) to a public transit district
194 or an eligible political subdivision, the remainder of the revenue under Subsection (7)(a)(ii) or
195 (7)(b)(ii) not allocated by a county legislative body through a resolution under Subsection
196 (9)(a) shall be distributed as follows:

197 (A) 50% of the revenue as provided in Subsection (8); and

198 (B) 50% of the revenue to the county legislative body.

199 (e) If a county legislative body seeks to change an allocation specified in a resolution
200 under Subsection (9)(a), the county legislative body may change the allocation by:

201 (i) adopting a resolution in accordance with Subsection (9)(a) specifying the percentage
202 of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a public transit
203 district or an eligible political subdivision;

204 (ii) obtaining approval to change the allocation of the sales and use tax by a majority of
205 all the members of the county legislative body; and

206 (iii) subject to Subsection (9)(f):

207 (A) in accordance with Section 59-12-2208, submitting an opinion question to the
208 county's registered voters voting on changing the allocation so that each registered voter has the
209 opportunity to express the registered voter's opinion on whether the allocation should be
210 changed; and

211 (B) in accordance with Section 59-12-2208, obtaining approval to change the
212 allocation from a majority of the county's registered voters voting on changing the allocation.

213 (f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection
214 (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with
215 Subsection (9)(e) and approved by the county legislative body in accordance with Subsection
216 (9)(e)(ii).

217 (g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a)
218 or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall
219 take effect on the first distribution the commission makes under this section after a 90-day
220 period that begins on the date the commission receives written notice meeting the requirements
221 of Subsection (9)(g)(ii) from the county.

222 (ii) The notice described in Subsection (9)(g)(i) shall state:

223 (A) that the county will make or change the percentage of an allocation under
224 Subsection (9)(a) or (e); and

225 (B) the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be

226 allocated to a public transit district or an eligible political subdivision.

227 ~~[(7)]~~ (10) (a) If a public transit district is organized after the date a county legislative
228 body first imposes a tax under this section, a change in a distribution required by this section
229 may not take effect until the first distribution the commission makes under this section after a
230 90-day period that begins on the date the commission receives written notice from the public
231 transit district of the organization of the public transit district.

232 (b) If an eligible political subdivision intends to provide public transit service within a
233 county after the date a county legislative body first imposes a tax under this section, a change
234 in a distribution required by this section may not take effect until the first distribution the
235 commission makes under this section after a 90-day period that begins on the date the
236 commission receives written notice from the eligible political subdivision stating that the
237 eligible political subdivision intends to provide public transit service within the county.

238 ~~[(8)]~~ (11) A county, city, or town may expend revenue collected from a tax under this
239 section, except for revenue the commission distributes in accordance with Subsection (4)(a),
240 (5)(a)(i), ~~[(8)]~~ (5)(b)(i), or (9)(d)(i) for:

- 241 (a) a class B road;
- 242 (b) a class C road;
- 243 (c) traffic and pedestrian safety, including for a class B road or class C road, for:
 - 244 (i) a sidewalk;
 - 245 (ii) curb and gutter;
 - 246 (iii) a safety feature;
 - 247 (iv) a traffic sign;
 - 248 (v) a traffic signal;
 - 249 (vi) street lighting; or
 - 250 (vii) a combination of Subsections ~~[(8)]~~ (11)(c)(i) through (vi);
- 251 (d) the construction, maintenance, or operation of an active transportation facility that
252 is for nonmotorized vehicles and multimodal transportation and connects an origin with a
253 destination;

254 (e) public transit system services; or

255 (f) a combination of Subsections ~~[(8)]~~ (11)(a) through (e).

256 ~~[(9)]~~ (12) A public transit district or an eligible political subdivision may expend
257 revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), ~~[or]~~
258 (5)(b)(i), or (9)(d)(i) for capital expenses and service delivery expenses of the public transit
259 district or eligible political subdivision.

260 ~~[(10)]~~ (13) (a) Revenue collected from a sales and use tax under this section may not be
261 used to supplant existing general fund appropriations that a county, city, or town has budgeted
262 for transportation as of the date the tax becomes effective for a county, city, or town.

263 (b) The limitation under Subsection ~~[(10)]~~ (13)(a) does not apply to a designated
264 transportation capital or reserve account a county, city, or town may have established prior to
265 the date the tax becomes effective.

266 Section 3. Section **63I-1-259** is amended to read:

267 **63I-1-259. Repeal dates, Title 59.**

268 (1) Subsection 59-2-924(3)(g) is repealed on December 31, 2016.

269 (2) Subsection 59-2-924.2(9) is repealed on December 31, 2017.

270 (3) Section 59-2-924.3 is repealed on December 31, 2016.

271 (4) Section 59-7-618 is repealed July 1, 2020.

272 (5) Section 59-9-102.5 is repealed December 31, 2020.

273 (6) Section 59-10-1033 is repealed July 1, 2020.

274 (7) Subsection 59-12-2219~~[(10)]~~(13) is repealed on June 30, 2020.