

# HB0023S01 compared with HB0023

~~{deleted text}~~ shows text that was in HB0023 but was deleted in HB0023S01.

inserted text shows text that was not in HB0023 but was inserted into HB0023S01.

**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 Curtis S. Bramble proposes the following substitute bill:

## PRIVILEGE TAX AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jon E. Stanard**

Senate Sponsor: ~~{ }~~ Curtis S. Bramble

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### LONG TITLE

~~{Committee Note:~~

~~—The Revenue and Taxation Interim Committee recommended this bill.~~

~~}General Description:~~

This bill modifies the privilege tax statute.

### Highlighted Provisions:

This bill:

- ▶ ~~{defines}~~ describes "exclusive possession" as it relates to a privilege tax; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides for retrospective operation.

## HB0023S01 compared with HB0023

### Utah Code Sections Affected:

AMENDS:

**59-4-101**, as last amended by Laws of Utah 2015, Chapter 199

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

Section 1. Section **59-4-101** is amended to read:

#### **59-4-101. Tax basis -- Exceptions -- Assessment and collection.**

~~{ (1) As used in this section, "exclusive possession" means:~~

~~— (a) for real property, the beneficial use of the property, together with the ability to exclude from occupancy and use any person other than the owner or an agent of the owner; and~~

~~— (b) for personal property, the beneficial use of the property, together with the ability to exclude any person other than the owner or an agent of the owner from the beneficial use of the property.~~

† ~~{(1)}~~{(2)}~~~~ (a) Except as provided in Subsections ~~{(1)}~~{(2)}~~~~(b) [and], ~~{(2)}~~{(1)}~~~~(c), and ~~{(4)}~~{(3)}~~~~, a tax is imposed on the possession or other beneficial use enjoyed by any person of any real or personal property [which] that is exempt for any reason [is exempt] from taxation, if that property is used in connection with a business conducted for profit.

(b) Any interest remaining in the state in state lands after subtracting amounts paid or due in part payment of the purchase price as provided in Subsection 59-2-1103(2)(b)(i) under a contract of sale is subject to taxation under this chapter regardless of whether the property is used in connection with a business conducted for profit.

(c) The tax imposed under Subsection ~~{(1)}~~{(2)}~~~~(a) does not apply to property exempt from taxation under Section 59-2-1114.

~~{(2)}~~{(3)}~~~~(a) The tax imposed under this chapter is the same amount that the ad valorem property tax would be if the possessor or user were the owner of the property.

(b) The amount of any payments [which] that are made in lieu of taxes is credited against the tax imposed on the beneficial use of property owned by the federal government.

~~{(3)}~~{(4)}~~~~ A tax is not imposed under this chapter on the following:

(a) the use of property [which] that is a concession in, or relative to, the use of a public airport, park, fairground, or similar property [which] that is available as a matter of right to the use of the general public;

## HB0023S01 compared with HB0023

(b) the use or possession of property by a religious, educational, or charitable organization;

(c) the use or possession of property if the revenue generated by the possessor or user of the property through its possession or use of the property inures only to the benefit of a religious, educational, or charitable organization and not to the benefit of any other person;

(d) the possession or other beneficial use of public land occupied under the terms of an agricultural lease or permit issued by the United States or this state;

(e) the use or possession of any lease, permit, or easement unless the lease, permit, or easement entitles the lessee or permittee to exclusive possession of the premises to which the lease, permit, or easement relates. ~~Every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right, permit, or easement, except from brines of the Great Salt Lake, is considered to be in possession of the premises, notwithstanding the fact that other parties may have a similar right to remove or extract another mineral from the same lands or estates.~~ regardless of whether another party has a similar right to remove or extract another mineral from the same lands or estates.

(f) the use or possession of property by a public agency, as defined in Section 11-13-103, to the extent that the ownership interest of the public agency in that property is subject to a fee in lieu of ad valorem property tax under Section 11-13-302; or

(g) the possession or beneficial use of public property as a tollway by a private entity through a tollway development agreement as defined in Section 72-6-202.

### (4) For purposes of Subsection (3)(e):

(a) every lessee, permittee, or other holder of a right to remove or extract the mineral covered by the holder's lease, right permit, or easement, except from brines of the Great Salt Lake, is considered to be in possession of the premises, regardless of whether another party has a similar right to remove or extract another mineral from the same property; and

(b) a lessee, permittee, or holder of an easement still has exclusive possession of the premises if the owner has the right to enter the premises, approve leasehold improvements, or inspect the premises.

~~(4)~~ (5) A tax imposed under this chapter is assessed to the possessors or users of the property on the same forms, and collected and distributed at the same time and in the same manner, as taxes assessed owners, possessors, or other claimants of property ~~which~~ that is

## HB0023S01 compared with HB0023

subject to ad valorem property taxation. The tax is not a lien against the property, and no tax-exempt property may be attached, encumbered, sold, or otherwise affected for the collection of the tax.

~~[(5)]~~ (6) Sections 59-2-301.1 through 59-2-301.7 apply for purposes of assessing a tax under this chapter.

### Section 2. **Retrospective operation.**

This bill has retrospective operation to January 1, 2015.

†

~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~