

LOCAL OPTION SALES AND USE TAX AMENDMENTS

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brian M. Greene

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts a local option sales and use tax for highways and public transit.

Highlighted Provisions:

This bill:

- ▶ authorizes a county to impose a local option sales and use tax for highways and public transit;
- ▶ addresses the use of revenue collected from the local option sales and use tax for highways and public transit;
- ▶ requires a political subdivision that receives certain sales and use tax revenue to submit certain information in audits, reviews, compilations, or fiscal reports; and
- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

59-12-2203, as last amended by Laws of Utah 2015, Chapter 275

59-12-2218, as last amended by Laws of Utah 2014, Chapter 271



28 ENACTS:

29 [59-12-2220](#), Utah Code Annotated 1953



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

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

33 **51-2a-202. Reporting requirements.**

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

36 (a) made at least annually; and

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

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

42 (3) If a political subdivision receives revenue from a sales and use tax imposed under
43 Section [59-12-2219](#) or [59-12-2220](#), the political subdivision shall identify the amount of
44 revenue the political subdivision budgets for transportation and verify compliance with
45 Subsection [59-12-2219](#)(10) or [59-12-2220](#)(7) in the audit, review, compilation, or fiscal report.

46 Section 2. Section **59-12-2203** is amended to read:

47 **59-12-2203. Authority to impose a sales and use tax under this part.**

48 (1) As provided in this Subsection (1), one of the following sales and use taxes may be
49 imposed within the boundaries of a local taxing jurisdiction:

50 (a) a county, city, or town may impose the sales and use tax authorized by Section
51 [59-12-2213](#) in accordance with Section [59-12-2213](#); or

52 (b) a city or town may impose the sales and use tax authorized by Section [59-12-2215](#)
53 in accordance with Section [59-12-2215](#).

54 (2) As provided in this Subsection (2), one of the following sales and use taxes may be
55 imposed within the boundaries of a local taxing jurisdiction:

56 (a) a county, city, or town may impose the sales and use tax authorized by Section
57 [59-12-2214](#) in accordance with Section [59-12-2214](#); or

58 (b) a county may impose the sales and use tax authorized by Section [59-12-2216](#) in

59 accordance with Section [59-12-2216](#).

60 (3) As provided in this Subsection (3), one of the following sales and use taxes may be
61 imposed within the boundaries of a local taxing jurisdiction:

62 (a) a county may impose the sales and use tax authorized by Section [59-12-2217](#) in
63 accordance with Section [59-12-2217](#); or

64 (b) a county, city, or town may impose the sales and use tax authorized by Section
65 [59-12-2218](#) in accordance with Section [59-12-2218](#).

66 (4) As provided in this Subsection (4), one of the following sales and use taxes may be
67 imposed within the boundaries of a local taxing jurisdiction:

68 [~~4~~] (a) a county may impose the sales and use tax authorized by Section [59-12-2219](#)
69 in accordance with Section [59-12-2219](#)~~[-]~~; or

70 (b) a county may impose the sales and use tax authorized by Section [59-12-2220](#) in
71 accordance with Section [59-12-2220](#).

72 Section 3. Section [59-12-2218](#) is amended to read:

73 **59-12-2218. County, city, or town option sales and use tax for airports, highways,**
74 **and systems for public transit -- Base -- Rate -- Administration of sales and use tax --**
75 **Voter approval exception.**

76 (1) Subject to the other provisions of this part, the following may impose a sales and
77 use tax under this section:

78 (a) if, on April 1, 2009, a county legislative body of a county of the second class
79 imposes a sales and use tax under this section, the county legislative body of the county of the
80 second class may impose the sales and use tax on the transactions:

81 (i) described in Subsection [59-12-103](#)(1); and

82 (ii) within the county, including the cities and towns within the county; or

83 (b) if, on April 1, 2009, a county legislative body of a county of the second class does
84 not impose a sales and use tax under this section:

85 (i) a city legislative body of a city within the county of the second class may impose a
86 sales and use tax under this section on the transactions described in Subsection [59-12-103](#)(1)
87 within that city;

88 (ii) a town legislative body of a town within the county of the second class may impose
89 a sales and use tax under this section on the transactions described in Subsection [59-12-103](#)(1)

90 within that town; and

91 (iii) the county legislative body of the county of the second class may impose a sales
92 and use tax on the transactions described in Subsection 59-12-103(1):

93 (A) within the county, including the cities and towns within the county, if on the date
94 the county legislative body provides the notice described in Section 59-12-2209 to the
95 commission stating that the county will enact a sales and use tax under this section, no city or
96 town within that county imposes a sales and use tax under this section or has provided the
97 notice described in Section 59-12-2209 to the commission stating that the city or town will
98 enact a sales and use tax under this section; or

99 (B) within the county, except for within a city or town within that county, if, on the
100 date the county legislative body provides the notice described in Section 59-12-2209 to the
101 commission stating that the county will enact a sales and use tax under this section, that city or
102 town imposes a sales and use tax under this section or has provided the notice described in
103 Section 59-12-2209 to the commission stating that the city or town will enact a sales and use
104 tax under this section.

105 (2) For purposes of Subsection (1) and subject to the other provisions of this section, a
106 county, city, or town legislative body that imposes a sales and use tax under this section may
107 impose the tax at a rate of:

- 108 (a) .10%; or
- 109 (b) .25%.

110 (3) A sales and use tax imposed at a rate described in Subsection (2)(a) shall be
111 expended as determined by the county, city, or town legislative body as follows:

112 (a) deposited as provided in Subsection [~~(9)~~] (8)(b) into the County of the Second
113 Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
114 Section 72-2-121.2;

115 (b) expended for a project or service relating to an airport facility for the portion of the
116 project or service that is performed within the county, city, or town within which the tax is
117 imposed:

118 (i) for a county legislative body that imposes the sales and use tax, if that airport
119 facility is part of the regional transportation plan of the area metropolitan planning organization
120 if a metropolitan planning organization exists for the area; or

- 121 (ii) for a city or town legislative body that imposes the sales and use tax, if:
- 122 (A) that city or town owns or operates the airport facility; and
- 123 (B) an airline is headquartered in that city or town; or
- 124 (c) deposited or expended for a combination of Subsections (3)(a) and (b).
- 125 (4) Subject to Subsections (5) [~~through (7)~~] and (6), a sales and use tax imposed at a
- 126 rate described in Subsection (2)(b) shall be expended as determined by the county, city, or town
- 127 legislative body as follows:
- 128 (a) deposited as provided in Subsection [(9)] (8)(b) into the County of the Second
- 129 Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in
- 130 Section 72-2-121.2;
- 131 (b) expended for:
- 132 (i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;
- 133 (ii) a local highway that is a principal arterial highway, minor arterial highway, major
- 134 collector highway, or minor collector road; or
- 135 (iii) a combination of Subsections (4)(b)(i) and (ii);
- 136 (c) expended for a project or service relating to a system for public transit for the
- 137 portion of the project or service that is performed within the county, city, or town within which
- 138 the sales and use tax is imposed;
- 139 (d) expended for a project or service relating to an airport facility for the portion of the
- 140 project or service that is performed within the county, city, or town within which the sales and
- 141 use tax is imposed:
- 142 (i) for a county legislative body that imposes the sales and use tax, if that airport
- 143 facility is part of the regional transportation plan of the area metropolitan planning organization
- 144 if a metropolitan planning organization exists for the area; or
- 145 (ii) for a city or town legislative body that imposes the sales and use tax, if:
- 146 (A) that city or town owns or operates the airport facility; and
- 147 (B) an airline is headquartered in that city or town;
- 148 (e) expended for:
- 149 (i) a class B road, as defined in Section 72-3-103;
- 150 (ii) a class C road, as defined in Section 72-3-104; or
- 151 (iii) a combination of Subsections (4)(e)(i) and (ii);

- 152 (f) expended for traffic and pedestrian safety, including:
- 153 (i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in
- 154 Section 72-3-104, for:
- 155 (A) a sidewalk;
- 156 (B) curb and gutter;
- 157 (C) a safety feature;
- 158 (D) a traffic sign;
- 159 (E) a traffic signal;
- 160 (F) street lighting; or
- 161 (G) a combination of Subsections (4)(f)(i)(A) through (F);
- 162 (ii) the construction of an active transportation facility that:
- 163 (A) is for nonmotorized vehicles and multimodal transportation; and
- 164 (B) connects an origin with a destination; or
- 165 (iii) a combination of Subsections (4)(f)(i) and (ii); or
- 166 (g) deposited or expended for a combination of Subsections (4)(a) through (f).

167 ~~[(5) A county, city, or town legislative body may not expend revenue collected within a~~
 168 ~~county, city, or town from a tax under this part for a purpose described in Subsections (4)(b)~~
 169 ~~through (f) unless the purpose is recommended by:]~~

170 ~~[(a) for a county that is part of a metropolitan planning organization, the metropolitan~~
 171 ~~planning organization of which the county is a part; or]~~

172 ~~[(b) for a county that is not part of a metropolitan planning organization, the council of~~
 173 ~~governments of which the county is a part.]~~

174 ~~[(6)]~~ (5) (a) (i) Except as provided in Subsection ~~[(6)]~~ (5)(b), a county, city, or town
 175 that imposes a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax
 176 rate of .05% as provided in Subsection ~~[(9)]~~ (8)(b)(i) into the Local Transportation Corridor
 177 Preservation Fund created by Section 72-2-117.5.

178 (ii) Revenue deposited in accordance with Subsection ~~[(6)]~~ (5)(a)(i) shall be expended
 179 and distributed in accordance with Section 72-2-117.5.

180 (b) A county, city, or town is not required to make the deposit required by Subsection
 181 ~~[(6)]~~ (5)(a)(i) if the county, city, or town:

- 182 (i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or

183 (ii) has continuously imposed a tax described in Subsection (2)(b):

184 (A) beginning after July 1, 2010; and

185 (B) for a five-year period.

186 [~~(7)~~] (6) (a) Subject to the other provisions of this Subsection [~~(7)~~] (6), a city or town
187 within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may:

188 (i) expend the revenues in accordance with Subsection (4); or

189 (ii) expend the revenues in accordance with Subsections [~~(7)~~] (6)(b) through (d) if:

190 (A) that city or town owns or operates an airport facility; and

191 (B) an airline is headquartered in that city or town.

192 (b) (i) A city or town legislative body of a city or town within which a sales and use tax

193 is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected

194 from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of

195 .25% for a purpose described in Subsection [~~(7)~~] (6)(b)(ii) if:

196 (A) that city or town owns or operates an airport facility; and

197 (B) an airline is headquartered in that city or town.

198 (ii) A city or town described in Subsection [~~(7)~~] (6)(b)(i) may expend the revenues

199 collected from a tax rate of greater than .10% but not to exceed the revenues collected from a
200 tax rate of .25% for:

201 (A) a project or service relating to the airport facility; and

202 (B) the portion of the project or service that is performed within the city or town

203 imposing the sales and use tax.

204 (c) If a city or town legislative body described in Subsection [~~(7)~~] (6)(b)(i) determines

205 to expend the revenues collected from a tax rate of greater than .10% but not to exceed the

206 revenues collected from a tax rate of .25% for a project or service relating to an airport facility

207 as allowed by Subsection [~~(7)~~] (6)(b), any remaining revenue that is collected from the sales

208 and use tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the

209 project or service relating to an airport facility as allowed by Subsection [~~(7)~~] (6)(b) shall be

210 expended as follows:

211 (i) 75% of the remaining revenues shall be deposited as provided in Subsection [~~(9)~~]

212 (8)(c) into the County of the Second Class State Highway Projects Fund created by Section

213 72-2-121.2 and expended as provided in Section 72-2-121.2; and

214 (ii) 25% of the remaining revenues shall be deposited as provided in Subsection [(9)]
215 (8)(c) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5
216 and expended and distributed in accordance with Section 72-2-117.5.

217 (d) A city or town legislative body that expends the revenues collected from a sales and
218 use tax imposed at the tax rate described in Subsection (2)(b) in accordance with Subsections
219 [(7)] (6)(b) and (c):

220 (i) shall, on or before the date the city or town legislative body provides the notice
221 described in Section 59-12-2209 to the commission stating that the city or town will enact a
222 sales and use tax under this section:

223 (A) determine the tax rate, the percentage of which is greater than .10% but does not
224 exceed .25%, the collections from which the city or town legislative body will expend for a
225 project or service relating to an airport facility as allowed by Subsection [(7)] (6)(b); and

226 (B) notify the commission in writing of the tax rate the city or town legislative body
227 determines in accordance with Subsection [(7)] (6)(d)(i)(A);

228 (ii) shall, on or before the April 1 immediately following the date the city or town
229 legislative body provides the notice described in Subsection [(7)] (6)(d)(i) to the commission:

230 (A) determine the tax rate, the percentage of which is greater than .10% but does not
231 exceed .25%, the collections from which the city or town legislative body will expend for a
232 project or service relating to an airport facility as allowed by Subsection [(7)] (6)(b); and

233 (B) notify the commission in writing of the tax rate the city or town legislative body
234 determines in accordance with Subsection [(7)] (6)(d)(ii)(A);

235 (iii) shall, on or before April 1 of each year after the April 1 described in Subsection
236 [(7)] (6)(d)(ii):

237 (A) determine the tax rate, the percentage of which is greater than .10% but does not
238 exceed .25%, the collections from which the city or town legislative body will expend for a
239 project or service relating to an airport facility as allowed by Subsection [(7)] (6)(b); and

240 (B) notify the commission in writing of the tax rate the city or town legislative body
241 determines in accordance with Subsection [(7)] (6)(d)(iii)(A); and

242 (iv) may not change the tax rate the city or town legislative body determines in
243 accordance with Subsections [(7)] (6)(d)(i) through (iii) more frequently than as prescribed by
244 Subsections [(7)] (6)(d)(i) through (iii).

245 ~~[(8)]~~ (7) Before a city or town legislative body may impose a sales and use tax under
 246 this section, the city or town legislative body shall provide a copy of the notice described in
 247 Section 59-12-2209 that the city or town legislative body provides to the commission:

- 248 (a) to the county legislative body within which the city or town is located; and
 249 (b) at the same time as the city or town legislative body provides the notice to the
 250 commission.

251 ~~[(9)]~~ (8) (a) Subject to Subsections ~~[(9)]~~ (8)(b) through (e) and Section 59-12-2207, the
 252 commission shall transmit revenues collected within a county, city, or town from a tax under
 253 this part that will be expended for a purpose described in Subsection (3)(b) or Subsections
 254 (4)(b) through (f) to the county, city, or town legislative body in accordance with Section
 255 59-12-2206.

256 (b) Except as provided in Subsection ~~[(9)]~~ (8)(c) and subject to Section 59-12-2207,
 257 the commission shall deposit revenues collected within a county, city, or town from a sales and
 258 use tax under this section that:

259 (i) are required to be expended for a purpose described in Subsection ~~[(6)]~~ (5)(a) into
 260 the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5; or

261 (ii) a county, city, or town legislative body determines to expend for a purpose
 262 described in Subsection (3)(a) or (4)(a) into the County of the Second Class State Highway
 263 Projects Fund created by Section 72-2-121.2 if the county, city, or town legislative body
 264 provides written notice to the commission requesting the deposit.

265 (c) Subject to Subsection ~~[(9)]~~ (8)(d) or (e), if a city or town legislative body provides
 266 notice to the commission in accordance with Subsection ~~[(7)]~~ (6)(d), the commission shall:

267 (i) transmit the revenues collected from the tax rate stated on the notice to the city or
 268 town legislative body monthly by electronic funds transfer; and

269 (ii) deposit any remaining revenues described in Subsection ~~[(7)]~~ (6)(c) in accordance
 270 with Subsection ~~[(7)]~~ (6)(c).

271 (d) (i) If a city or town legislative body provides the notice described in Subsection
 272 ~~[(7)]~~ (6)(d)(i) to the commission, the commission shall transmit or deposit the revenues
 273 collected from the sales and use tax:

274 (A) in accordance with Subsection ~~[(9)]~~ (8)(c);

275 (B) beginning on the date the city or town legislative body enacts the sales and use tax;

276 and

277 (C) ending on the earlier of the June 30 immediately following the date the city or town
278 legislative body provides the notice described in Subsection [~~(7)~~] (6)(d)(ii) to the commission
279 or the date the city or town legislative body repeals the sales and use tax.

280 (ii) If a city or town legislative body provides the notice described in Subsection [~~(7)~~]
281 (6)(d)(ii) or (iii) to the commission, the commission shall transmit or deposit the revenues
282 collected from the sales and use tax:

283 (A) in accordance with Subsection [~~(9)~~] (8)(c);

284 (B) beginning on the July 1 immediately following the date the city or town legislative
285 body provides the notice described in Subsection [~~(7)~~] (6)(d)(ii) or (iii) to the commission; and

286 (C) ending on the earlier of the June 30 of the year after the date the city or town
287 legislative body provides the notice described in Subsection [~~(7)~~] (6)(d)(ii) or (iii) to the
288 commission or the date the city or town legislative body repeals the sales and use tax.

289 (e) (i) If a city or town legislative body that is required to provide the notice described
290 in Subsection [~~(7)~~] (6)(d)(i) does not provide the notice described in Subsection [~~(7)~~] (6)(d)(i)
291 to the commission on or before the date required by Subsection [~~(7)~~] (6)(d) for providing the
292 notice, the commission shall transmit, transfer, or deposit the revenues collected from the sales
293 and use tax within the city or town in accordance with Subsections [~~(9)~~] (8)(a) and (b).

294 (ii) If a city or town legislative body that is required to provide the notice described in
295 Subsection [~~(7)~~] (6)(d)(ii) or (iii) does not provide the notice described in Subsection [~~(7)~~]
296 (6)(d)(ii) or (iii) to the commission on or before the date required by Subsection [~~(7)~~] (6)(d) for
297 providing the notice, the commission shall transmit or deposit the revenues collected from the
298 sales and use tax within the city or town in accordance with:

299 (A) Subsection [~~(9)~~] (8)(c); and

300 (B) the most recent notice the commission received from the city or town legislative
301 body under Subsection [~~(7)~~] (6)(d).

302 Section 4. Section 59-12-2220 is enacted to read:

303 **59-12-2220. County option sales and use tax for class B and class C roads -- Base**
304 **-- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant existing**
305 **budgeted transportation revenue.**

306 (1) As used in this section:

307 (a) "Class B road" means the same as that term is defined in Section [72-3-103](#).
308 (b) "Class C road" means the same as that term is defined in Section [72-3-104](#).
309 (2) Subject to the other provisions of this part, a county legislative body may impose a
310 sales and use tax of .25% on the transactions described in Subsection [59-12-103\(1\)](#) within the
311 county, including the cities and towns within the county.
312 (3) The commission shall distribute sales and use tax revenue collected under this
313 section as provided in Subsections (4) and (5).
314 (4) The commission shall distribute the sales and use tax revenue collected within the
315 county as follows:
316 (a) .20% shall be distributed as provided in Subsection (5); and
317 (b) .05% shall be distributed to the county legislative body.
318 (5) (a) Subject to Subsection (5)(b), the commission shall make the distributions
319 required by Subsection (4)(a) as follows:
320 (i) 50% of the total revenue collected under Subsection (4)(a) within a county that
321 imposes a tax under this section shall be distributed to the cities and towns within that county
322 on the basis of the percentage that the population of each city or town bears to the total
323 population of all cities and towns within that county; and
324 (ii) 50% of the total revenue collected under Subsection (4)(a) within a county that
325 imposes a tax under this section shall be distributed to the cities and towns within that county
326 on the basis of the percentage that revenue generated based on location of the transaction that
327 occurs in each city or town, as determined under Sections [59-12-211](#) through [59-12-215](#), bears
328 to the total revenue generated based on the location of the transaction that occurs in all cities
329 and towns within that county.
330 (b) (i) Population for purposes of this Subsection (5) shall be determined on the basis
331 of the most recent official census or census estimate of the United States Census Bureau.
332 (ii) If a needed population estimate is not available from the United States Census
333 Bureau, population figures shall be derived from an estimate from the Utah Population
334 Estimates Committee created by executive order of the governor.
335 (6) A county, city, or town may expend revenue collected from a tax under this section
336 for:
337 (a) a class B road;

- 338 (b) a class C road;
- 339 (c) traffic and pedestrian safety, including for a class B road or class C road, for:
- 340 (i) a sidewalk;
- 341 (ii) curb and gutter;
- 342 (iii) a safety feature;
- 343 (iv) a traffic sign;
- 344 (v) a traffic signal;
- 345 (vi) street lighting; or
- 346 (vii) a combination of Subsections (6)(c)(i) through (vi);
- 347 (d) subject to the limitation in Subsection (7), public transit system services; or
- 348 (e) a combination of Subsections (6)(a) through (d).
- 349 (7) A county, city, or town may not expend more than 40% of the revenue distributed
- 350 to the county, city, or town from a tax collected under this section on public transit system
- 351 services.
- 352 (8) (a) Revenue collected from a sales and use tax under this section may not be used
- 353 to supplant existing general fund appropriations that a county, city, or town has budgeted for
- 354 transportation as of the date the tax becomes effective for a county, city, or town.
- 355 (b) The limitation under Subsection (8)(a) does not apply to a designated transportation
- 356 capital or reserve account a county, city, or town may have established prior to the date the tax
- 357 becomes effective.

Legislative Review Note
Office of Legislative Research and General Counsel