

HB0215S01 compared with HB0215

~~deleted text~~ shows text that was in HB0215 but was deleted in HB0215S01.

inserted text shows text that was not in HB0215 but was inserted into HB0215S01.

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Representative Brian M. Greene proposes the following substitute bill:

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:

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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

ENACTS:

59-12-2220, Utah Code Annotated 1953

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

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

51-2a-202. Reporting requirements.

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

(a) made at least annually; and

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

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

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

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

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

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

(a) a county, city, or town may impose the sales and use tax authorized by Section

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59-12-2213 in accordance with Section 59-12-2213; or

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

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

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

(b) a county may impose the sales and use tax authorized by Section 59-12-2216 in accordance with Section 59-12-2216.

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

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

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

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

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

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

Section 3. Section **59-12-2218** is amended to read:

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

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

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

(i) described in Subsection 59-12-103(1); and

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

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

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

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

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

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

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

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

(a) .10%; or

(b) .25%.

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

(a) deposited as provided in Subsection ~~f(9)~~~~f(8)~~(b) into the County of the Second

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Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2;

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

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

(ii) for a city or town legislative body that imposes the sales and use tax, if:

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

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

(c) deposited or expended for a combination of Subsections (3)(a) and (b).

(4) Subject to Subsections (5) ~~ff~~ through (7) ~~f and (6)~~, a sales and use tax imposed at a rate described in Subsection (2)(b) shall be expended as determined by the county, city, or town legislative body as follows:

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

(b) expended for:

(i) a state highway designated under Title 72, Chapter 4, Part 1, State Highways;

(ii) a local highway that is a principal arterial highway, minor arterial highway, major collector highway, or minor collector road; or

(iii) a combination of Subsections (4)(b)(i) and (ii);

(c) expended for a project or service relating to a system for public transit for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed;

(d) expended for a project or service relating to an airport facility for the portion of the project or service that is performed within the county, city, or town within which the sales and use tax is imposed:

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

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if a metropolitan planning organization exists for the area; or

- (ii) for a city or town legislative body that imposes the sales and use tax, if:
 - (A) that city or town owns or operates the airport facility; and
 - (B) an airline is headquartered in that city or town;
- (e) expended for:
 - (i) a class B road, as defined in Section 72-3-103;
 - (ii) a class C road, as defined in Section 72-3-104; or
 - (iii) a combination of Subsections (4)(e)(i) and (ii);
- (f) expended for traffic and pedestrian safety, including:
 - (i) for a class B road, as defined in Section 72-3-103, or class C road, as defined in

Section 72-3-104, for:

- (A) a sidewalk;
- (B) curb and gutter;
- (C) a safety feature;
- (D) a traffic sign;
- (E) a traffic signal;
- (F) street lighting; or
- (G) a combination of Subsections (4)(f)(i)(A) through (F);
- (ii) the construction of an active transportation facility that:
 - (A) is for nonmotorized vehicles and multimodal transportation; and
 - (B) connects an origin with a destination; or
- (iii) a combination of Subsections (4)(f)(i) and (ii); or
- (g) deposited or expended for a combination of Subsections (4)(a) through (f).

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

~~(f)~~(a) for a county that is part of a metropolitan planning organization, the metropolitan planning organization of which the county is a part; or ~~(f)~~

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

~~(6)~~ ~~(5)~~ (a) (i) Except as provided in Subsection ~~(6)~~ ~~(5)~~ (b), a county, city,

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or town that imposes a tax described in Subsection (2)(b) shall deposit the revenue collected from a tax rate of .05% as provided in Subsection ~~§(9)-§(8)~~(b)(i) into the Local Transportation Corridor Preservation Fund created by Section 72-2-117.5.

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

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

- (i) imposed a tax described in Subsection (2)(b) on July 1, 2010; or
- (ii) has continuously imposed a tax described in Subsection (2)(b):
 - (A) beginning after July 1, 2010; and
 - (B) for a five-year period.

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

- (i) expend the revenues in accordance with Subsection (4); or
- (ii) expend the revenues in accordance with Subsections ~~§(7)-§(6)~~(b) through (d) if:
 - (A) that city or town owns or operates an airport facility; and
 - (B) an airline is headquartered in that city or town.

(b) (i) A city or town legislative body of a city or town within which a sales and use tax is imposed at the tax rate described in Subsection (2)(b) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a purpose described in Subsection ~~§(7)-§(6)~~(b)(ii) if:

- (A) that city or town owns or operates an airport facility; and
- (B) an airline is headquartered in that city or town.

(ii) A city or town described in Subsection ~~§(7)-§(6)~~(b)(i) may expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for:

- (A) a project or service relating to the airport facility; and
- (B) the portion of the project or service that is performed within the city or town imposing the sales and use tax.

(c) If a city or town legislative body described in Subsection ~~§(7)-§(6)~~(b)(i)

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determines to expend the revenues collected from a tax rate of greater than .10% but not to exceed the revenues collected from a tax rate of .25% for a project or service relating to an airport facility as allowed by Subsection ~~§(7)~~~~§(6)~~(b), any remaining revenue that is collected from the sales and use tax imposed at the tax rate described in Subsection (2)(b) that is not expended for the project or service relating to an airport facility as allowed by Subsection ~~§(7)~~~~§(6)~~(b) shall be expended as follows:

(i) 75% of the remaining revenues shall be deposited as provided in Subsection ~~§(9)~~~~§(8)~~(c) into the County of the Second Class State Highway Projects Fund created by Section 72-2-121.2 and expended as provided in Section 72-2-121.2; and

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

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

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

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

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

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

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

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

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(iii) shall, on or before April 1 of each year after the April 1 described in Subsection ~~§(7)~~~~§(6)~~(d)(ii):

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

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

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

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

(a) to the county legislative body within which the city or town is located; and

(b) at the same time as the city or town legislative body provides the notice to the commission.

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

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

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

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

(c) Subject to Subsection ~~§(9)~~~~§(8)~~(d) or (e), if a city or town legislative body

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provides notice to the commission in accordance with Subsection ~~§(7)§(6)~~(d), the commission shall:

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

(ii) deposit any remaining revenues described in Subsection ~~§(7)§(6)~~(c) in accordance with Subsection ~~§(7)§(6)~~(c).

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

(A) in accordance with Subsection ~~§(9)§(8)~~(c);

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

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

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

(A) in accordance with Subsection ~~§(9)§(8)~~(c);

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

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

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

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

(A) Subsection ~~¶(9)¶(8)~~(c); and

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

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

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

(1) As used in this section:

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

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

(2) Subject to the other provisions of this part, a county legislative body may impose a sales and use tax of .25% on the transactions described in Subsection 59-12-103(1) within the county, including the cities and towns within the county.

(3) The commission shall distribute sales and use tax revenue collected under this section as provided in Subsections (4) and (5).

(4) The commission shall distribute the sales and use tax revenue collected within the county as follows:

(a) .20% shall be distributed as provided in Subsection (5); and

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

(5) (a) Subject to Subsection (5)(b), the commission shall make the distributions required by Subsection (4)(a) as follows:

(i) 50% of the total revenue collected under Subsection (4)(a) within a county that imposes a tax under this section shall be distributed to the cities and towns within that county on the basis of the percentage that the population of each city or town bears to the total population of all cities and towns within that county; and

(ii) 50% of the total revenue collected under Subsection (4)(a) within a county that

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imposes a tax under this section shall be distributed to the cities and towns within that county on the basis of the percentage that revenue generated based on location of the transaction that occurs in each city or town, as determined under Sections 59-12-211 through 59-12-215, bears to the total revenue generated based on the location of the transaction that occurs in all cities and towns within that county.

(b) (i) Population for purposes of this Subsection (5) shall be determined on the basis of the most recent official census or census estimate of the United States Census Bureau.

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

(6) A county, city, or town may expend revenue collected from a tax under this section for:

(a) a class B road;

(b) a class C road;

(c) traffic and pedestrian safety, including for a class B road or class C road, for:

(i) a sidewalk;

(ii) curb and gutter;

(iii) a safety feature;

(iv) a traffic sign;

(v) a traffic signal;

(vi) street lighting; or

(vii) a combination of Subsections (6)(c)(i) through (vi);

(d) subject to the limitation in Subsection (7), public transit system services; or

(e) a combination of Subsections (6)(a) through (d).

(7) A county, city, or town may not expend more than 40% of the revenue distributed to the county, city, or town from a tax collected under this section on public transit system services.

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

(b) The limitation under Subsection (8)(a) does not apply to a designated transportation

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capital or reserve account a county, city, or town may have established prior to the date the tax becomes effective.

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~~Legislative Review Note~~

~~Office of Legislative Research and General Counsel~~