

**Senator Ralph Okerlund** proposes the following substitute bill:

**OUTDOOR RECREATION GRANT PROGRAM**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ralph Okerlund**

House Sponsor: Brad R. Wilson

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**LONG TITLE**

**General Description:**

This bill creates the State Transient Room Tax Act and modifies provisions related to the Utah Office of Outdoor Recreation.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ imposes a state transient room tax on accommodations and related services;
- ▶ creates the Outdoor Recreation Infrastructure Account;
- ▶ distributes the revenues the state collects from the state transient room tax to the

Outdoor Recreation Infrastructure Account to implement the Outdoor Recreational Infrastructure Grant Program; and

- ▶ establishes the Utah Outdoor Recreation Grant Advisory Committee.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

ENACTS:



- 26 [59-28-101](#), Utah Code Annotated 1953
- 27 [59-28-102](#), Utah Code Annotated 1953
- 28 [59-28-103](#), Utah Code Annotated 1953
- 29 [59-28-104](#), Utah Code Annotated 1953
- 30 [59-28-105](#), Utah Code Annotated 1953
- 31 [59-28-106](#), Utah Code Annotated 1953
- 32 [59-28-107](#), Utah Code Annotated 1953
- 33 [63N-9-204](#), Utah Code Annotated 1953
- 34 [63N-9-205](#), Utah Code Annotated 1953

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

37 Section 1. Section [59-28-101](#) is enacted to read:

38 **CHAPTER 28. STATE TRANSIENT ROOM TAX ACT**

39 **59-28-101. Title.**

40 This chapter is known as the "State Transient Room Tax Act."

41 Section 2. Section [59-28-102](#) is enacted to read:

42 **59-28-102. Definitions.**

43 As used in this chapter:

44 (1) "Agreement" means the same as that term is defined in Section [59-12-102](#).

45 (2) "Certified service provider" means the same as that term is defined in Section  
46 [59-12-102](#).

47 (3) "Model 2 seller" means the same as that term is defined in Section [59-12-102](#).

48 (4) "Purchaser" means the same as that term is defined in Section [59-12-102](#).

49 (5) "Sales price" means the same as that term is defined in Section [59-12-102](#).

50 (6) "Seller" means the same as that term is defined in Section [59-12-102](#).

51 Section 3. Section [59-28-103](#) is enacted to read:

52 **59-28-103. Imposition -- Rate -- Revenue distribution.**

53 (1) Subject to the other provisions of this chapter, the state shall impose a tax on the  
54 transactions described in Subsection [59-12-103](#)(1)(i) at a rate of .32%.

55 (2) The tax imposed under this chapter is in addition to any other taxes imposed on the  
56 transactions described in Subsection [59-12-103](#)(1)(i).

57 (3) The commission shall deposit the revenue the state collects from the tax under this  
 58 chapter into the Outdoor Recreation Infrastructure Account created in Section [63N-9-205](#) to  
 59 fund the Outdoor Recreational Infrastructure Grant Program created in Section [63N-9-202](#).

60 Section 4. Section **59-28-104** is enacted to read:

61 **59-28-104. Collection of tax.**

62 (1) Except as provided in Subsection (2), the commission shall administer, collect, and  
 63 enforce a tax under this chapter in accordance with:

64 (a) Chapter 1, General Taxation Policies; and

65 (b) the same procedures used to administer, collect, and enforce the tax under Chapter  
 66 12, Part 1, Tax Collection.

67 (2) A tax under this chapter is not subject to Section [59-12-107.1](#) or [59-12-123](#).

68 (3) A seller required to collect a tax under this chapter may retain  $\hat{\$}$ → ~~[each month]~~ ← $\hat{\$}$  6%  
 68a of  
 69 any amounts the seller is required to remit to the commission  $\hat{\$}$ → **under this chapter for the costs**  
 69a of collecting the tax ← $\hat{\$}$  .

70 (4) The commission shall retain and deposit an administrative charge in accordance  
 71 with Section [59-1-306](#) from the revenues the commission collects from a tax under this  
 72 chapter.

73 Section 5. Section **59-28-105** is enacted to read:

74 **59-28-105. Seller or certified service provider reliance on commission**  
 75 **information.**

76 A seller or certified service provider is not liable for failing to collect a tax at a tax rate  
 77 imposed under this chapter if the seller's or certified service provider's failure to collect the tax  
 78 is as a result of the seller's or certified service provider's reliance on incorrect data provided by  
 79 the commission in a database created by the commission:

80 (1) containing tax rates or boundaries regarding a tax under this chapter; or

81 (2) indicating the taxability of transactions described in Subsection [59-12-103](#)(1)(i).

82 Section 6. Section **59-28-106** is enacted to read:

83 **59-28-106. Certified service provider or model 2 seller reliance on commission**  
 84 **certified software.**

85 (1) Except as provided in Subsection (2) and subject to Subsection (4), a certified  
 86 service provider or model 2 seller is not liable for failing to collect a tax required under this  
 87 chapter if:

88 (a) the certified service provider or model 2 seller relies on software the commission  
89 certifies; and

90 (b) the certified service provider's or model 2 seller's failure to collect a tax required  
91 under this chapter is as a result of the seller's or certified service provider's reliance on incorrect  
92 data:

93 (i) provided by the commission; or  
94 (ii) in the software the commission certifies.

95 (2) The relief from liability described in Subsection (1) does not apply if a certified  
96 service provider or model 2 seller incorrectly classifies an item or transaction into a product  
97 category the commission certifies.

98 (3) If the taxability of a product category is incorrectly classified in software the  
99 commission certifies, the commission shall:

100 (a) notify a certified service provider or model 2 seller of the incorrect classification of  
101 the taxability of a product category in software the commission certifies; and

102 (b) state in the notice required by Subsection (3)(a) that, if the certified service provider  
103 or model 2 seller fails to correct the taxability of the item or transaction within 10 days after the  
104 day on which the certified service provider or model 2 seller receives the notice, the certified  
105 service provider or model 2 seller is liable for failing to collect the correct amount of tax under  
106 this chapter on the incorrectly classified product category.

107 (4) If a certified service provider or model 2 seller fails to correct the taxability of an  
108 item or transaction within 10 days after the day on which the certified service provider or  
109 model 2 seller receives the notice described in Subsection (3), the certified service provider or  
110 model 2 seller is liable for failing to collect the correct amount of tax under this chapter on the  
111 item or transaction.

112 Section 7. Section **59-28-107** is enacted to read:

113 **59-28-107. Purchaser relief from liability.**

114 (1) (a) Except as provided in Subsection (1)(b), a purchaser is relieved from a penalty  
115 under Section [59-1-401](#) for failure to pay a tax due under this chapter or an underpayment if:

116 (i) the purchaser's seller or certified service provider relies on incorrect data provided  
117 by the commission:

118 (A) on a tax rate;

119 (B) on a boundary;  
120 (C) on a taxing jurisdiction; or  
121 (D) in the taxability matrix the commission provides in accordance with the agreement;

122 or

123 (ii) the purchaser, regardless of whether the purchaser holds a direct payment permit in  
124 accordance with Section 59-12-107.1, relies on incorrect data provided by the commission:

125 (A) on a tax rate;  
126 (B) on a boundary;  
127 (C) on a taxing jurisdiction; or  
128 (D) in the taxability matrix the commission provides in accordance with the agreement.

129 (b) For purposes of Subsection (1)(a), a purchaser is not relieved from a penalty under  
130 Section 59-1-401 for failure to pay a tax due under this chapter or an underpayment if the  
131 purchaser's, the purchaser's seller's, or the purchaser's certified service provider's reliance on  
132 incorrect data provided by the commission is as a result of conduct that is:

133 (i) fraudulent;  
134 (ii) intentional; or  
135 (iii) willful.

136 (2) In addition to the relief from a penalty described in Subsection (1), a purchaser is  
137 not liable for a tax or interest under Section 59-1-402 for failure to pay a tax due under this  
138 chapter or an underpayment if:

139 (a) the purchaser's seller or certified service provider relies on:

140 (i) incorrect data provided by the commission:

141 (A) on a tax rate;  
142 (B) on a boundary; or  
143 (C) on a taxing jurisdiction; or

144 (ii) an erroneous classification by the commission:

145 (A) in the taxability matrix the commission provides in accordance with the agreement;

146 and

147 (B) with respect to a term in the library of definitions that is listed as taxable or  
148 exempt, included in or excluded from "sales price," or included in or excluded from a  
149 definition; or

150 (b) the purchaser, regardless of whether the purchaser holds a direct payment permit in  
151 accordance with Section 59-12-107.1, relies on:

152 (i) incorrect data provided by the commission:

153 (A) on a tax rate;

154 (B) on a boundary; or

155 (C) on a taxing jurisdiction; or

156 (ii) an erroneous classification by the commission:

157 (A) in the taxability matrix the commission provides in accordance with the agreement;

158 and

159 (B) with respect to a term in the library of definitions that is listed as taxable or  
160 exempt, included in or excluded from "sales price," or included in or excluded from a  
161 definition.

162 Section 8. Section **63N-9-204** is enacted to read:

163 **63N-9-204. Utah Outdoor Recreation Grant Advisory Committee -- Membership**  
164 **-- Duties -- Expenses.**

165 (1) As used in this section, "advisory committee" means the Utah Outdoor Recreation  
166 Grant Advisory Committee created in Subsection (2).

167 (2) There is created in the office the Utah Outdoor Recreation Grant Advisory  
168 Committee, composed of the following 14 members knowledgeable about outdoor recreation  
169 activities, youth programs, or tourism-based economic development:

170 (a) five members representing state or federal government as follows:

171 (i) the director;

172 (ii) the director of the Division of Parks and Recreation created in Section 79-4-201 or  
173 the director's designee;

174 (iii) one member who is an employee of the office engaged in the duties described in  
175 Section 63N-7-201, appointed by the executive director;

176 (iv) one member representing the Bureau of Land Management, appointed by the  
177 executive director; and

178 (v) one member representing the National Park Service Rivers, Trails and  
179 Conservation Assistance Program, appointed by the executive director;

180 (b) nine members representing local government, the private sector, or the public,

181 appointed by the executive director as follows:

182 (i) one member representing municipal government, recommended by the Utah League  
183 of Cities and Towns;

184 (ii) one member representing county government, recommended by the Utah  
185 Association of Counties;

186 (iii) two members representing the outdoor industry;

187 (iv) one member representing the Utah Tourism Industry Association;

188 (v) one member representing the Utah Hotel and Lodging Association;

189 (vi) one member representing the health care industry;

190 (vii) one member representing multi-ability groups or programs; and

191 (viii) one member representing a university outdoor recreation, parks, or tourism  
192 department; and

193 (c) one of the members appointed under Subsection (2)(b)(i) or (ii) shall represent rural  
194 interests.

195 (3) The advisory committee shall advise and make recommendations to the office  
196 regarding infrastructure grants.

197 (4) (a) Except as required by Subsection (4)(b), as terms of appointed advisory  
198 committee members expire, the executive director shall appoint each new member or  
199 reappointed member to a four-year term.

200 (b) Notwithstanding the requirements of Subsection (4)(a), the executive director shall,  
201 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms  
202 of appointed advisory committee members are staggered so that approximately half of the  
203 appointed advisory committee members are appointed every two years.

204 (5) The director shall serve as chair of the advisory committee.

205 (6) The advisory committee shall elect annually a vice chair from the advisory  
206 committee's members.

207 (7) When a vacancy occurs in the membership for any reason, the executive director  
208 shall appoint the replacement for the unexpired term.

209 (8) A majority of the advisory committee constitutes a quorum for the purpose of  
210 conducting advisory committee business and the action of a majority of a quorum constitutes  
211 the action of the advisory committee.

212 (9) The office shall provide administrative staff support for the advisory committee.

213 (10) A member may not receive compensation or benefits for the member's service, but  
214 a member appointed under Subsection (2)(b) may receive per diem and travel expenses in  
215 accordance with:

216 (a) Section [63A-3-106](#);

217 (b) Section [63A-3-107](#); and

218 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
219 [63A-3-107](#).

220 (11) The advisory committee, as a governmental entity, has all the rights, privileges,  
221 and immunities of a governmental entity of the state and the advisory committee meetings are  
222 subject to Title 52, Chapter 4, Open and Public Meetings Act.

223 Section 9. Section **63N-9-205** is enacted to read:

224 **63N-9-205. Utah Outdoor Recreation Infrastructure Account -- Uses -- Costs.**

225 (1) There is created an expendable special revenue fund known as the "Outdoor  
226 Recreation Infrastructure Account," which the office shall use to fund the Outdoor Recreational  
227 Infrastructure Grant Program created in Section [63N-9-202](#).

228 (2) The account consists of:

229 (a) distributions to the account under Section [59-28-103](#);

230 (b) interest earned on the account;

231 (c) appropriations made by the Legislature; and

232 (d) private donations, grants, gifts, bequests, or money made available from any other  
233 source to implement this part.

234 (3) The office shall, with the advice of the Utah Outdoor Recreation Grant Advisory  
235 Committee created in Section [63N-9-204](#), administer the account.

236 (4) The cost of administering the account shall be paid from money in the account.

237 (5) Interest accrued from investment of money in the account shall remain in the  
238 account.

239 Section 10. **Effective date.**

240 This bill takes effect on  $\hat{S} \rightarrow$  ~~July~~ **January**  $\leftarrow \hat{S}$  1,  $\hat{S} \rightarrow$  ~~2017~~ **2018**  $\leftarrow \hat{S}$  .