

1 **SALES AND USE TAX FOR PUBLIC TRANSIT**

2 **AMENDMENTS**

3 2018 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Gage Froerer**

6 Senate Sponsor: Curtis S. Bramble

7
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 ▶ provides that a public transit district may only use certain sales and use tax revenue
15 for a capital project or service delivery of the public transit district that is on a
16 priority list:

- 17 • created by the county's council of governments; and
- 18 • approved by the county legislative body;
- 19 ▶ requires a council of governments to:
 - 20 • develop a written prioritization process for the prioritization of public transit
21 capital projects and services;
 - 22 • create a priority list of the public transit district capital projects and services;
- 23 and
 - 24 • present the priority list to the county legislative body for approval;
- 25 ▶ specifies requirements and procedures for the adoption of the written prioritization
26 process;
- 27 ▶ specifies procedures for finalizing a priority list or the funding level of a public



28 transit district capital project or service; and
29 ▶ makes technical and conforming changes.

30 **Money Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **59-12-2219**, as last amended by Laws of Utah 2016, Chapter 373



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

39 Section 1. Section **59-12-2219** is amended to read:

40 **59-12-2219. County option sales and use tax for highways and public transit --**
41 **Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant**
42 **existing budgeted transportation revenue.**

43 (1) As used in this section:

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

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

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

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

48 (B) after May 12, 2015, provides written notice to the commission in accordance with
49 Subsection (10)(b) that it intends to provide public transit service within a county;

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

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

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

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

57 (3) The commission shall distribute sales and use tax revenue collected under this
58 section as provided in Subsections (4) through (10).

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

62 (a) .10% shall be transferred to the public transit district in accordance with Section
63 [59-12-2206](#);

64 (b) .10% shall be distributed as provided in Subsection (8); and

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

66 (5) If the entire boundary of a county that imposes a sales and use tax under this section
67 is not annexed into a single public transit district, but a city or town within the county is
68 annexed into a single public transit district that also has a county of the first class annexed into
69 the same public transit district, the commission shall distribute the sales and use tax revenue
70 collected within the county as follows:

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

74 (i) .10% shall be transferred to the public transit district in accordance with Section
75 [59-12-2206](#);

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

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

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

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

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

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

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

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

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

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

90 county of the first or second class that imposes a sales and use tax under this section is not
91 annexed into a single public transit district, or if there is not a public transit district within the
92 county, the commission shall distribute the sales and use tax revenue collected within the
93 county as follows:

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

97 (i) .10% shall be transferred to the public transit district in accordance with Section
98 [59-12-2206](#);

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

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

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

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

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

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

108 (c) the commission shall distribute the sales and use tax revenue, except for the sales
109 and use tax revenue described in Subsections (6)(a) and (b), as follows:

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

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

112 (7) For a county not described in Subsection (4) or (5), if the entire boundary of a
113 county of the third, fourth, fifth, or sixth class that imposes a sales and use tax under this
114 section is not annexed into a single public transit district, or if there is not a public transit
115 district within the county, the commission shall distribute the sales and use tax revenue
116 collected within the county as follows:

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

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

121 (ii) .10% shall be distributed as provided in Subsection (9); and
122 (iii) .05% shall be distributed to the county legislative body;
123 (b) for an eligible political subdivision within the county, the commission shall
124 distribute the sales and use tax revenue collected within that eligible political subdivision as
125 follows:

126 (i) .10% shall be distributed as provided in Subsection (8);
127 (ii) .10% shall be distributed as provided in Subsection (9); and
128 (iii) .05% shall be distributed to the county legislative body; and
129 (c) the commission shall distribute the sales and use tax revenue, except for the sales
130 and use tax revenue described in Subsections (7)(a) and (b), as follows:

131 (i) .10% shall be distributed as provided in Subsection (8); and
132 (ii) .15% shall be distributed to the county legislative body.

133 (8) (a) Subject to Subsection (8)(b), the commission shall make the distributions
134 required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (5)(c)(i), (6)(a)(ii), (6)(b)(ii), (6)(c)(i),
135 (7)(a)(i), (7)(b)(i), (7)(c)(i), and (9)(d)(ii)(A) as follows:

136 (i) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
137 (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) within the
138 counties that impose a tax under this section shall be distributed to the unincorporated areas,
139 cities, and towns within those counties on the basis of the percentage that the population of
140 each unincorporated area, city, or town bears to the total population of all of the counties that
141 impose a tax under this section; and

142 (ii) 50% of the total revenue collected under Subsections (4)(b), (5)(a)(ii), (5)(b)(ii),
143 (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) within the
144 counties that impose a tax under this section shall be distributed to the unincorporated areas,
145 cities, and towns within those counties on the basis of the location of the transaction as
146 determined under Sections [59-12-211](#) through [59-12-215](#).

147 (b) (i) Population for purposes of this Subsection (8) shall be determined on the basis
148 of the most recent official census or census estimate of the United States Census Bureau.

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

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

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

161 (B) for a county that obtains approval from a majority of the county's registered voters
162 voting on the imposition of a sales and use tax under this section on or after May 10, 2016,
163 shall, in consultation with any cities, towns, or eligible political subdivisions within the county,
164 allocate the revenue under Subsection (7)(a)(ii) or (7)(b)(ii) by adopting a resolution specifying
165 the percentage of revenue under Subsection (7)(a)(ii) or (7)(b)(ii) that will be allocated to a
166 public transit district or an eligible political subdivision.

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

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

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

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

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

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

179 (c) Notwithstanding Section 59-12-2208, the opinion question required by Section
180 59-12-2208 shall state the allocations the county legislative body makes in accordance with this
181 Subsection (9).

182 (d) The commission shall make the distributions required by Subsection (7)(a)(ii) or

183 (7)(b)(ii) as follows:

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

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

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

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

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

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

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

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

202 (A) in accordance with Section [59-12-2208](#), submitting an opinion question to the
203 county's registered voters voting on changing the allocation so that each registered voter has the
204 opportunity to express the registered voter's opinion on whether the allocation should be
205 changed; and

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

208 (f) Notwithstanding Section [59-12-2208](#), the opinion question required by Subsection
209 (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with
210 Subsection (9)(e) and approved by the county legislative body in accordance with Subsection
211 (9)(e)(ii).

212 (g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a)
213 or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall

214 take effect on the first distribution the commission makes under this section after a 90-day
215 period that begins on the date the commission receives written notice meeting the requirements
216 of Subsection (9)(g)(ii) from the county.

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

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

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

222 (10) (a) If a public transit district is organized after the date a county legislative body
223 first imposes a tax under this section, a change in a distribution required by this section may
224 not take effect until the first distribution the commission makes under this section after a
225 90-day period that begins on the date the commission receives written notice from the public
226 transit district of the organization of the public transit district.

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

233 (11) A county, city, or town may expend revenue collected from a tax under this
234 section, except for revenue the commission distributes in accordance with Subsection (4)(a),
235 (5)(a)(i), (5)(b)(i), or (9)(d)(i) for:

236 (a) a class B road;

237 (b) a class C road;

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

239 (i) a sidewalk;

240 (ii) curb and gutter;

241 (iii) a safety feature;

242 (iv) a traffic sign;

243 (v) a traffic signal;

244 (vi) street lighting; or

245 (vii) a combination of Subsections (11)(c)(i) through (vi);
246 (d) the construction, maintenance, or operation of an active transportation facility that
247 is for nonmotorized vehicles and multimodal transportation and connects an origin with a
248 destination;
249 (e) public transit system services; or
250 (f) a combination of Subsections (11)(a) through (e).
251 (12) [A] (a) Subject to the requirements in this Subsection (12), a public transit district
252 or an eligible political subdivision may expend revenue the commission distributes in
253 accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for capital expenses and
254 service delivery expenses of the public transit district or eligible political subdivision.
255 (b) A public transit district may only expend revenue described in Subsection (12)(a)
256 for a capital project or service delivery of the public transit district that is on a priority list:
257 (i) created by the county's council of governments in accordance with Subsection
258 (12)(c); and
259 (ii) approved by the county legislative body in accordance with Subsection (12)(c).
260 (c) (i) As provided in this Subsection (12)(c), a council of governments shall:
261 (A) develop a written prioritization process for the prioritization of public transit
262 projects and services to be funded by revenues collected from the sales and use tax revenue
263 described in Subsection (12)(a);
264 (B) create a priority list of the public transit district capital projects and services
265 described in Subsection (12)(a) in accordance with Subsection (12)(d); and
266 (C) present the priority list to the county legislative body for approval in accordance
267 with Subsection (12)(d)(v).
268 (ii) The written prioritization process described in Subsection (12)(c)(i)(A) shall
269 include:
270 (A) a definition of the type of projects to which the written prioritization process
271 applies;
272 (B) subject to Subsection (12)(c)(iii), the specification of a weighted criteria system
273 that the council of governments will use to rank proposed public transit capital projects and
274 services and how that weighted criteria system will be used to determine which proposed
275 projects and services will be prioritized;

276 (C) the specification of data that is necessary to apply the weighted criteria system;
277 (D) application procedures for a project to be considered for prioritization by the
278 council of governments; and
279 (E) any other provision the council of governments considers appropriate.
280 (iii) The weighted criteria system described in Subsection (12)(c)(ii)(B) shall include
281 the following:
282 (A) the cost effectiveness of a project or service;
283 (B) the degree to which a project will mitigate regional congestion;
284 (C) the compliance requirements of applicable federal laws or regulations;
285 (D) the economic impact of a project;
286 (E) the degree to which a project will require tax revenues to fund maintenance and
287 operation expenses; and
288 (F) any other provision the council of governments considers appropriate.
289 (d) (i) A council of governments shall use the weighted criteria system adopted in the
290 written prioritization process developed in accordance with Subsection (12)(c) to create a
291 priority list of public transit capital projects or services for which revenues collected from the
292 sales and use tax revenue described in Subsection (12)(a) may be expended.
293 (ii) Before a council of governments may finalize a priority list or the funding level of a
294 project or service, the council of governments shall conduct a public meeting on:
295 (A) the written prioritization process; and
296 (B) the merits of the projects and services that are prioritized as part of the written
297 prioritization process.
298 (iii) A council of governments shall make the weighted criteria system ranking for each
299 project prioritized as part of the written prioritization process publicly available before the
300 public meeting required by Subsection (12)(d)(ii) is held.
301 (iv) If a council of governments prioritizes a project over another project with a higher
302 rank under the weighted criteria system, the council of governments shall:
303 (A) identify the reasons for prioritizing the project over another project with a higher
304 rank under the weighted criteria system at the public meeting required by Subsection
305 (12)(d)(ii); and
306 (B) make the reasons described in Subsection (12)(d)(iv)(A) publicly available.

307 (v) Subject to Subsections (12)(d)(vi) and (vii), after a council of governments finalizes
308 a priority list in accordance with this Subsection (12)(d), the council of governments shall:

309 (A) submit the priority list to the county legislative body for approval; and

310 (B) obtain approval of the priority list from a majority of the members of the county
311 legislative body.

312 (vi) A council of governments may only submit one priority list per calendar year to the
313 county legislative body.

314 (vii) A county legislative body may only consider and approve one priority list
315 submitted under Subsection (12)(d)(v) per calendar year.

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

319 (b) The limitation under Subsection (13)(a) does not apply to a designated
320 transportation capital or reserve account a county, city, or town may have established prior to
321 the date the tax becomes effective.

Legislative Review Note
Office of Legislative Research and General Counsel