

LOCAL OPTION SALES AND USE TAX MODIFICATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad M. Daw

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 city or town 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 2016, Chapter 373

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

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



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**(13) or **59-12-2220**(5) 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 **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

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

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

70 (b) a city or town may impose the sales and use tax authorized by Section 59-12-2220
71 in accordance with Section 59-12-2220.

72 Section 3. Section 59-12-2219 is amended to read:

73 **59-12-2219. County option sales and use tax for highways and public transit --**
74 **Base -- Rate -- Distribution and expenditure of revenue -- Revenue may not supplant**
75 **existing budgeted transportation revenue.**

76 (1) As used in this section:

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

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

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

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

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

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

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

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

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

(b) If a city or town imposes a sales and use tax under Section 59-12-2220, the county legislative body of a county imposing a sales and use tax under this section shall, before the county may impose a sales and use tax under this section, provide a copy of the notice described in Section 59-12-2209 that the county provides to the commission:

(i) to the city or town legislative body of each city or town located within the county that imposes a sales and use tax under Section 59-12-2220; and

(ii) at the same time as the county legislative body provides the notice to the commission.

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

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

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

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

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

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

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

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

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

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

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

follows:

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

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

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

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

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

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

(6) For a county not described in Subsection (4) or (5), if the entire boundary of a county of the first or second class that imposes a sales and use tax under this section is not annexed into a single public transit district, or if there is not a public transit district within the county, the commission shall distribute the sales and use tax revenue collected within the county as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) .10% shall be distributed as provided in Subsection (9); and

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

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

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

(ii) .10% shall be distributed as provided in Subsection (9); and

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

(c) the commission shall distribute the sales and use tax revenue, except for the sales and use tax revenue described in Subsections (7)(a) and (b), as follows:

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

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

(8) (a) Subject to Subsection (8)(b), the commission shall make the distributions required by Subsections (4)(b), (5)(a)(ii), (5)(b)(ii), (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) as follows:

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

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

(b) (i) Population for purposes of this Subsection (8) 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.

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

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

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

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

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

(B) an eligible political subdivision within the county.

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

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

(ii) an eligible political subdivision within the county.

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

(d) The commission shall make the distributions required by Subsection (7)(a)(ii) or (7)(b)(ii) as follows:

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

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

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

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

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

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

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

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

(A) in accordance with Section 59-12-2208, submitting an opinion question to the county's registered voters voting on changing the allocation so that each registered voter has the

245 opportunity to express the registered voter's opinion on whether the allocation should be
246 changed; and

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

249 (f) Notwithstanding Section 59-12-2208, the opinion question required by Subsection
250 (9)(e)(iii)(A) shall state the allocations specified in the resolution adopted in accordance with
251 Subsection (9)(e) and approved by the county legislative body in accordance with Subsection
252 (9)(e)(ii).

253 (g) (i) If a county makes an allocation by adopting a resolution under Subsection (9)(a)
254 or changes an allocation by adopting a resolution under Subsection (9)(e), the allocation shall
255 take effect on the first distribution the commission makes under this section after a 90-day
256 period that begins on the date the commission receives written notice meeting the requirements
257 of Subsection (9)(g)(ii) from the county.

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

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

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

263 (10) (a) If a public transit district is organized after the date a county legislative body
264 first imposes a tax under this section, a change in a distribution required by this section may
265 not take effect until the first distribution the commission makes under this section after a
266 90-day period that begins on the date the commission receives written notice from the public
267 transit district of the organization of the public transit district.

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

274 (11) A county, city, or town may expend revenue collected from a tax under this
275 section, except for revenue the commission distributes in accordance with Subsection (4)(a),

(5)(a)(i), (5)(b)(i), or (9)(d)(i) 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 (11)(c)(i) through (vi);

(d) the construction, maintenance, or operation of an active transportation facility that is for nonmotorized vehicles and multimodal transportation and connects an origin with a destination;

(e) public transit system services; or

(f) a combination of Subsections (11)(a) through (e).

(12) A public transit district or an eligible political subdivision may expend revenue the commission distributes in accordance with Subsection (4)(a), (5)(a)(i), (5)(b)(i), or (9)(d)(i) for capital expenses and service delivery expenses of the public transit district or eligible political subdivision.

(13) (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 (13)(a) does not apply to a designated transportation capital or reserve account a county, city, or town may have established prior to the date the tax becomes effective.

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

59-12-2220. City and town 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) (a) Subject to the other provisions of this part and except as provided in Subsection (2)(b), a city or town legislative body may impose a sales and use tax of .10% on the transactions described in Subsection [59-12-103](#)(1) within the city or town.

(b) A city or town legislative body may not impose a sales and use tax under this section if:

(i) the county that the city or town is located within imposes a sales and use tax under Section [59-12-2219](#); or

(ii) the city or town imposes a local monthly transportation utility fee that is assessed on all property owners within the city or town.

(3) The commission shall transmit the revenues collected within the city or town from a tax under this section to the city or town legislative body in accordance with Section [59-12-2206](#).

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

(a) (i) a class B road;

(ii) a class C road; or

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

(b) 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 (4)(b)(i) through (vi);

(c) the construction of an active transportation facility that:

(i) is for nonmotorized vehicles and multimodal transportation; and

(ii) connects an origin with a destination;

(d) public transit system services; or

(e) a combination of Subsections (4)(a) through (d).

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

(b) The limitation under Subsection (5)(a) does not apply to a designated transportation capital or reserve account a city or town may have established before the date the tax becomes effective.

(6) (a) Before a city or town legislative body submits an opinion question to the residents of the city or town under Section 59-12-2208 to impose a tax under this section, the city or town legislative body shall:

(i) submit to the county legislative body in which the city or town is located a written notice of the intent to submit the opinion question to the residents of the city or town; and

(ii) receive from the county legislative body:

(A) a written resolution passed by the county legislative body stating that the county legislative body is not seeking to impose a tax under Section 59-12-2219; or

(B) a written statement that in accordance with Subsection (6)(b) the results of a county opinion question submitted to the residents of the county under Sections 59-12-2208 and 59-12-2219, permit the city or town legislative body to submit the opinion question to the residents of the city or town in accordance with this part.

(b) (i) Within 60 days after the day the county legislative body receives from a city or town legislative body described in Subsection (6)(a) the notice of the intent to submit an opinion question to the residents of the city or town, the county legislative body shall provide the city or town legislative body:

(A) the written resolution described in Subsection (6)(a)(ii)(A); or

(B) written notice that the county legislative body will submit an opinion question to the residents of the county under Section 59-12-2208 for the county to impose a tax under Section 59-12-2219.

(ii) If the county legislative body provides the city or town legislative body the written notice that the county legislative body will submit an opinion question as provided in Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no later than, from the date the county legislative body sends the written notice, the later of:

(A) a 12-month period;

369 (B) the next regular primary election; or

370 (C) the next regular general election.

371 (iii) Within 30 days of the date of the canvass of the election at which the opinion
372 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
373 city or town legislative body described in Subsection (6)(a) written results of the opinion
374 question submitted by the county legislative body under Section 59-12-2209, indicating that:

375 (A) the city or town legislative body may not impose a tax under this section because a
376 majority of the county's registered voters voted in favor of the county imposing a tax under
377 Section 59-12-2219 and the county legislative body by a majority vote approved the imposition
378 of the tax; or

379 (B) the city or town legislative body may submit the opinion question to the residents
380 of the city or town in accordance with Section 59-12-2209 because a majority of the county's
381 registered voters voted against the county imposing a tax under Section 59-12-2219.

382 (c) Notwithstanding Subsection (6)(b), a county legislative body may, at any time,
383 provide a city or town legislative body described in Subsection (6)(a) a written resolution
384 passed by the county legislative body stating that the county legislative body is not seeking to
385 impose a tax under Section 59-12-2219, which permits the city or town legislative body to
386 submit an opinion question to the city's or town's residents.

387 (7) (a) Subject to the provisions of this Subsection (7), a tax imposed by a city or town
388 legislative body under this section shall be repealed if:

389 (i) a city or town imposes a tax under this section; and

390 (ii) after the enactment of a tax by a city or town described in Subsection (7)(a)(i), a
391 county legislative body of a county in which the city or town is located imposes a sales and use
392 tax under Section 59-12-2219.

393 (b) If a tax imposed by a city or town legislative body is repealed under Subsection
394 (7)(a):

395 (i) the repeal of a tax imposed under this section shall take effect on the same date as
396 the enactment of a tax by a county legislative body under Subsection (7)(a)(ii); and

397 (ii) the notice provided by the county legislative body under Section 59-12-2209
398 notifying the commission of the enactment of a tax under Section 59-12-2219 described in
399 Subsection (7)(a)(ii) shall serve as notice to the commission of a repeal of a tax imposed under

400 this section by a city or town as required in Section [59-12-2209](#).

Legislative Review Note
Office of Legislative Research and General Counsel