

**REPEAL OF ILLEGAL DRUG STAMP TAX ACT**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Daniel W. Thatcher**

House Sponsor: Johnny Anderson

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**LONG TITLE**

**General Description:**

This bill repeals the Illegal Drug Stamp Tax Act and related references to the Act.

**Highlighted Provisions:**

This bill:

- ▶ repeals the Illegal Drug Stamp Tax Act;
- ▶ repeals references to the Illegal Drug Stamp Tax Act; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

**63J-1-104**, as last amended by Laws of Utah 2011, Chapter 342

**63J-2-202**, as last amended by Laws of Utah 2009, Chapters 183 and 368

**REPEALS:**

**59-19-101**, as enacted by Laws of Utah 1988, Chapter 246

**59-19-102**, as enacted by Laws of Utah 1988, Chapter 246

**59-19-103**, as enacted by Laws of Utah 1988, Chapter 246

**59-19-104**, as enacted by Laws of Utah 1988, Chapter 246



28           **59-19-105**, as last amended by Laws of Utah 2009, Chapter 183  
29           **59-19-106**, as last amended by Laws of Utah 1989, Chapter 242  
30           **59-19-107**, as enacted by Laws of Utah 1988, Chapter 246



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

33           Section 1. Section **63J-1-104** is amended to read:

34           **63J-1-104. Revenue types -- Disposition of funds collected or credited by a state**  
35 **agency.**

36           (1) (a) The Division of Finance shall:

37           (i) account for revenues in accordance with generally accepted accounting principles;

38 and

39           (ii) use the major revenue types in internal accounting.

40           (b) Each agency shall:

41           (i) use the major revenue types to account for revenues;

42           (ii) deposit revenues and other public funds received by them by following the  
43 procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

44           (iii) expend revenues and public funds as required by this chapter.

45           (2) (a) Each agency shall deposit its free revenues into the appropriate fund.

46           (b) An agency may expend free revenues up to the amount specifically appropriated by  
47 the Legislature.

48           (c) Any free revenue funds appropriated by the Legislature to an agency that remain  
49 unexpended at the end of the fiscal year lapse to the source fund unless the Legislature provides  
50 by law that those funds are nonlapsing.

51           (3) (a) Each agency shall deposit its restricted revenues into the applicable restricted  
52 account or fund.

53           (b) Revenues in a restricted account or fund do not lapse to another account or fund  
54 unless otherwise specifically provided for by law or legislative appropriation.

55           (c) The Legislature may appropriate restricted revenues from a restricted account or  
56 fund for the specific purpose or program designated by law.

57           (d) If the fund equity of a restricted account or fund is insufficient to provide the  
58 accounts appropriated from it by the Legislature, the Division of Finance may reduce the

59 appropriation to a level that ensures that the fund equity is not less than zero.

60 (e) Any restricted revenues appropriated by the Legislature to an agency that remain  
61 unexpended at the end of the fiscal year lapse to the applicable restricted account or fund unless  
62 the Legislature provides by law that those appropriations, or the program or line item financed  
63 by those appropriations, are nonlapsing.

64 (4) (a) An agency may expend dedicated credits for any purpose within the program or  
65 line item.

66 (b) (i) Except as provided in Subsection (4)(b)(ii), an agency may not expend dedicated  
67 credits in excess of the amount appropriated as dedicated credits by the Legislature.

68 (ii) In order to expend dedicated credits in excess of the amount appropriated as  
69 dedicated credits by the Legislature, the following procedure shall be followed:

70 (A) The agency seeking to make the excess expenditure shall:

71 (I) develop a new work program that:

72 (Aa) consists of the currently approved work program and the excess expenditure  
73 sought to be made; and

74 (Bb) complies with the requirements of Section 63J-2-202;

75 (II) prepare a written justification for the new work program that sets forth the purpose  
76 and necessity of the excess expenditure; and

77 (III) submit the new work program and the written justification for the new work  
78 program to the Division of Finance.

79 (B) The Division of Finance shall process the new work program with written  
80 justification and make this information available to the Governor's Office of Planning and  
81 Budget and the legislative fiscal analyst.

82 (iii) An expenditure of dedicated credits in excess of amounts appropriated as  
83 dedicated credits by the Legislature may not be used to permanently increase personnel within  
84 the agency unless:

85 (A) the increase is approved by the Legislature; or

86 (B) the money is deposited as a dedicated credit in [~~(I) the Drug Stamp Tax Fund~~  
87 ~~under Section 59-19-105; or (H)] a line item covering tuition or federal vocational funds at an  
88 institution of higher education.~~

89 (c) (i) All excess dedicated credits lapse to the appropriate fund at the end of the fiscal

90 year unless the Legislature has designated the entire program or line item that is partially or  
91 fully funded from dedicated credits as nonlapsing.

92 (ii) The Division of Finance shall determine the appropriate fund into which the  
93 dedicated credits lapse.

94 (5) (a) The Legislature may establish by law the maximum amount of fixed collections  
95 that an agency may expend.

96 (b) If an agency receives less than the maximum amount of expendable fixed  
97 collections established by law, the agency's authority to expend is limited to the amount of  
98 fixed collections that it receives.

99 (c) If an agency receives fixed collections greater than the maximum amount of  
100 expendable fixed collections established by law, those excess amounts lapse to the General  
101 Fund, the Education Fund, the Transportation Fund, or the Transportation Investment Fund of  
102 2005 as designated by the director of the Division of Finance at the end of the fiscal year.

103 (6) Unless otherwise specifically provided by law, when an agency has a program or  
104 line item that is funded by more than one major revenue type:

105 (a) the agency shall expend its dedicated credits and fixed collections first; and

106 (b) if the program or line item includes both free revenue and restricted revenue, an  
107 agency shall expend those revenues based upon a proration of the amounts appropriated from  
108 each of those major revenue types.

109 Section 2. Section **63J-2-202** is amended to read:

110 **63J-2-202. Disposition of revenues -- Reporting of balances in dedicated credits**  
111 **and fixed collections.**

112 (1) (a) Each agency shall include in its annual budget request estimates of dedicated  
113 credits revenues and fixed collections revenues that are identified by, collected for, or set by the  
114 agency.

115 (b) If the Legislature or the Division of Finance establishes a new revenue type by law,  
116 the agency shall include that new revenue type in its budget request for the next fiscal year.

117 (c) (i) Except as provided in Subsection (1)(c)(ii), if any agency fails to include the  
118 estimates of a revenue type in its annual budget request, the Division of Finance shall deposit  
119 the money collected in that revenue type into the General Fund or other appropriate fund as  
120 free or restricted revenue.

121 (ii) The Division of Finance may not deposit the money collected from a revenue type  
122 not included in an agency's annual budget request into the General Fund or other appropriate  
123 fund if the agency did not include the estimates of the revenue type in its annual budget request  
124 because the Legislature had not yet established or authorized the new revenue type by law.

125 (2) (a) (i) (A) Except as provided in Subsection (2)(a)(i)(B) or (2)(b), each agency that  
126 receives dedicated credits and fixed collections revenues greater than the amount appropriated  
127 to them by the Legislature in the annual appropriations act may expend the excess up to 25% of  
128 the amount appropriated if the expenditure is authorized by an amended work program  
129 approved as provided in Section 63J-1-209. [~~However, except for money deposited as~~  
130 ~~dedicated credits in the Illegal Drug Stamp Tax Fund under Section 59-19-105 or]~~

131 (B) Except for line items covering tuition and federal vocational funds at institutions of  
132 higher learning, any expenditure of dedicated credits in excess of amounts appropriated by the  
133 Legislature may not be used to permanently increase personnel within the agency unless  
134 approved by the Legislature.

135 (ii) The Division of Finance shall deposit the balance of that excess into the General  
136 Fund or other appropriate fund as free or restricted revenue.

137 (b) Notwithstanding the requirements of Subsection (2)(a), when an agency's dedicated  
138 credits and fixed collections revenues represent over 90% of the budget of the program for  
139 which they are collected, the agency may expend 100% of the excess of the amount  
140 appropriated if the expenditure is authorized by an amended work program approved as  
141 provided in Section 63J-1-209.

142 (3) Each agency that receives dedicated credits or fixed collections shall report, to the  
143 Division of Finance, any balances remaining in those funds at the conclusion of each fiscal  
144 year.

145 **Section 3. Repealer.**

146 This bill repeals:

147 **Section 59-19-101, Short title.**

148 **Section 59-19-102, Definitions.**

149 **Section 59-19-103, Tax imposed on marihuana and controlled substances.**

150 **Section 59-19-104, Stamps evidencing tax paid to be provided and sold by the**  
151 **commission.**

152           Section **59-19-105**, Stamps to be affixed to marihuana and controlled substance --  
153 **Anonymity provided when purchasing stamps -- Collection and distribution of tax --**  
154 **Property in kind.**  
155           Section **59-19-106**, Civil penalty -- Criminal penalty -- Statute of limitations --  
156 **Burden of proof.**  
157           Section **59-19-107**, Commission to administer tax -- No criminal immunity for  
158 **dealers.**

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**Legislative Review Note**  
as of 2-14-12 4:49 PM

**Office of Legislative Research and General Counsel**