

SALES AND USE TAX DIVERSIONS

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: David Ure

AN ACT RELATING TO THE SALES AND USE TAX ACT, THE UTAH SPORTS AUTHORITY ACT, AND PUBLIC TRANSIT DISTRICTS; BEGINNING ON JULY 1, 1999, TERMINATING THE REQUIREMENT THAT CERTAIN REVENUES GENERATED UNDER THE LOCAL SALES AND USE TAX ACT BE DEPOSITED INTO THE OLYMPICS SPECIAL REVENUE FUND; BEGINNING ON JULY 1, 1999, REQUIRING CERTAIN REVENUES GENERATED UNDER THE LOCAL SALES AND USE TAX ACT TO BE DEPOSITED INTO THE AIRPORT TO UNIVERSITY OF UTAH LIGHT RAIL RESTRICTED ACCOUNT; CREATING THE AIRPORT TO UNIVERSITY OF UTAH LIGHT RAIL RESTRICTED ACCOUNT; PROVIDING THE PURPOSES FOR WHICH REVENUES IN THE RESTRICTED ACCOUNT MAY BE EXPENDED; BEGINNING ON JULY 1, 1999, PROVIDING THAT CERTAIN REVENUES GENERATED UNDER THE LOCAL SALES AND USE TAX ACT BE RETAINED BY COUNTIES, CITIES, OR TOWNS; BEGINNING ON AUGUST 30, 1999, REQUIRING CERTAIN SALES AND USE TAX REVENUES IN THE OLYMPIC SPECIAL REVENUE FUND AND INTEREST ON THOSE REVENUES TO BE DISTRIBUTED TO COUNTIES, CITIES, OR TOWNS; AND MAKING TECHNICAL CHANGES.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-12-103, as last amended by Chapters 12, 202, 210, 270, 291 and 318, Laws of Utah 1998

59-12-204, as last amended by Chapter 261, Laws of Utah 1997

59-12-205, as last amended by Chapter 261, Laws of Utah 1997

63A-7-113, as enacted by Chapter 202, Laws of Utah 1998

ENACTS:

17A-2-1064, Utah Code Annotated 1953

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

Section 1. Section **17A-2-1064** is enacted to read:

17A-2-1064. Airport to University of Utah Light Rail Restricted Account -- Creation -- Use of revenues.

(1) There is created within the General Fund a restricted account known as the "Airport to University of Utah Light Rail Restricted Account."

(2) The account shall be funded from the portion of the sales and use tax under Sections 59-12-204 and 59-12-205 that is:

(a) generated by a city or town that will have constructed within its boundaries the Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(b) equal to the revenues generated by a 1/64% tax rate on the taxable items and services under Subsection 59-12-103(1).

(3) The Utah State Tax Commission shall deposit the revenues described in Subsection (2) into the account.

(4) The account shall earn interest which shall be deposited into the account.

(5) (a) A district may use the revenues in the account for a purpose described in Subsection (5)(b) if:

(i) more than 200,000 people reside within the district boundaries; and

(ii) the district receives a grant or a loan under 49 U.S.C. Sec. 5309;

(A) for the Airport to University of Utah Light Rail project described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(B) before the construction of the Airport to University of Utah Light Rail project described in Subsection (5)(a)(ii)(A) is completed.

(b) Subsection (5)(a) applies to:

(i) maintaining the Airport to University of Utah Light Rail described in Subsection (5)(a)(ii)(A); or

(ii) operating the Airport to University of Utah Light Rail described in Subsection (5)(a)(ii)(A).

Section 2. Section **59-12-103** is amended to read:

59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.

(1) There is levied a tax on the purchaser for the amount paid or charged for the following:

- (a) retail sales of tangible personal property made within the state;
- (b) amount paid to common carriers or to telephone or telegraph corporations, whether the corporations are municipally or privately owned, for:
 - (i) all transportation;
 - (ii) intrastate telephone service; or
 - (iii) telegraph service;
- (c) gas, electricity, heat, coal, fuel oil, or other fuels sold for commercial use;
- (d) gas, electricity, heat, coal, fuel oil, or other fuels sold for residential use;
- (e) meals sold;
- (f) admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing and wrestling matches, closed circuit television broadcasts, billiard or pool parlors, bowling lanes, golf and miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;
- (g) services for repairs or renovations of tangible personal property or services to install tangible personal property in connection with other tangible personal property;
- (h) except as provided in Subsection 59-12-104(7), cleaning or washing of tangible personal property;
- (i) tourist home, hotel, motel, or trailer court accommodations and services for less than 30 consecutive days;
- (j) laundry and dry cleaning services;
- (k) leases and rentals of tangible personal property if the property situs is in this state, if the

lessee took possession in this state, or if the property is stored, used, or otherwise consumed in this state;

- (l) tangible personal property stored, used, or consumed in this state; and
- (m) prepaid telephone calling cards.

(2) Except for Subsection (1)(d), the rates of the tax levied under Subsection (1) shall be:

- (a) 5% through June 30, 1994;
- (b) 4.875% beginning on July 1, 1994 through June 30, 1997; and
- (c) 4.75% beginning on July 1, 1997.

(3) The rates of the tax levied under Subsection (1)(d) shall be 2% from and after January 1, 1990.

(4) (a) [~~From January 1, 1990, through December 31, 1999, there~~] There shall be deposited in an Olympics special revenue fund or funds as determined by the Division of Finance under Section 51-5-4, for the use of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports Authority Act:

(i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax generated by a 1/64% tax rate on the taxable items and services under Subsection (1);

(ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable items and services under Subsection (1); and

(iii) interest earned on the amounts under Subsections (4)(a)(i) and (ii).

(b) These funds shall be used:

(i) by the Utah Sports Authority as follows:

(A) to the extent funds are available, to transfer directly to a debt service fund or to otherwise reimburse to the state any amount expended on debt service or any other cost of any bonds issued by the state to construct any public sports facility as defined in Section 63A-7-103;

(B) to pay for the actual and necessary operating, administrative, legal, and other expenses of the Utah Sports Authority, but not including protocol expenses for seeking and obtaining the right to host the Winter Olympic Games; and

(C) unless the Legislature appropriates additional funds from the Olympics Special Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan, or pledge in the aggregate more than:

(I) \$59,000,000 of sales and use tax deposited into the Olympics special revenue fund under Subsection (4)(a);

(II) the interest earned on the amount described in Subsection (4)(b)(i)(C)(I); and

(III) the revenues deposited into the Olympics Special Revenue Fund that are not sales and use taxes deposited under Subsection (4)(a) or interest on the sales and use taxes;

(ii) to pay salary, benefits, or administrative costs associated with the State Olympic Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative costs may not be paid from the sales and tax revenues generated by municipalities or counties and deposited under Subsection (4)(a)(ii).

(c) A payment of salary, benefits, or administrative costs under Subsection 63A-10-103(3) is not considered an expenditure of the Utah Sports Authority.

(d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(C), the authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge the appropriated funds unless the authority:

(i) contracts in writing for the full reimbursement of the monies to the Olympics special revenue fund by a public sports entity or other person benefitting from the expenditure; and

(ii) obtains a security interest that secures payment or performance of the obligation to reimburse.

(e) A contract or agreement entered into in violation of Subsection (4)(d) is void.

(5) (a) From July 1, 1997, the annual amount of sales and use tax generated by a 1/8% tax rate on the taxable items and services under Subsection (1) shall be used as follows:

(i) 50% shall be used for water and wastewater projects as provided in Subsections (5)(b) through (f); and

(ii) 50% shall be used for transportation projects as provided in Subsections (5)(g) through (h).

(b) Five hundred thousand dollars each year shall be transferred to the Agriculture Resource Development Fund created in Section 4-18-6.

(c) Fifty percent of the remaining amount generated by 50% of the 1/8% tax rate shall be transferred to the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources. In addition to the uses allowed of the fund under Section 73-10-24, the fund may also be used to:

(i) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the funds made available to the Division of Water Resources under this section, of potential project features of the Central Utah Project;

(ii) conduct hydrologic and geotechnical investigations by the Department of Natural Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(iii) fund state required dam safety improvements; and

(iv) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(d) Twenty-five percent of the remaining amount generated by 50% of the 1/8% tax rate shall be transferred to the Utah Wastewater Loan Program subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects as defined in Section 73-10b-2.

(e) Twenty-five percent of the remaining amount generated by 50% of the 1/8% tax rate shall be transferred to the Drinking Water Loan Program subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(f) Notwithstanding Subsections (5)(b), (c), (d), and (e), \$100,000 of the remaining amount

generated by 50% of the 1/8% tax rate each year shall be transferred as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and other technical staff for the adjudication of water rights. Any remaining balance at the end of each fiscal year shall lapse back to the contributing funds on a prorated basis.

(g) Fifty percent of the 1/8% tax rate shall be transferred to the class B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C road funds except as provided in Subsection (5)(h).

(h) (i) If H.B. 53, "Transportation Corridor Preservation," passes in the 1996 General Session, \$500,000 each year shall be transferred to the Transportation Corridor Preservation Revolving Loan Fund, and if H.B. 121, "State Park Access Roads," passes in the 1996 General Session, from July 1, 1997, through June 30, 2006, \$500,000 shall be transferred to the Department of Transportation for the State Park Access Highways Improvement Program. The remaining amount generated by 50% of the 1/8% tax rate shall be transferred to the class B and class C roads account.

(ii) At least 50% of the money transferred to the Transportation Corridor Preservation Revolving Loan Fund under Subsection (5)(h)(i) shall be used to fund loan applications made by the Department of Transportation at the request of local governments.

(6) (a) Beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion of the state sales and use tax under Subsections (2) and (3) equal to the revenues generated by a 1/64% tax rate on the taxable items and services under Subsection (1).

(b) [~~Beginning~~] Except for sales and use taxes deposited under Subsection (7), beginning on [January] July 1, [2000] 1999, the revenues generated by the 1/64% tax rate:

(i) retained under Subsection 59-12-204(7)(a) shall be retained by the counties, cities, or towns as provided in Section 59-12-204; and

(ii) retained under Subsection 59-12-205(4)(a) shall be distributed to each county, city, and town as provided in Section 59-12-205.

(7) Beginning on July 1, 1999, the commission shall deposit into the Airport to University

of Utah Light Rail Restricted Account created in Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and 59-12-205 that is:

(a) generated by a city or town that will have constructed within its boundaries the Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(b) equal to the revenues generated by a 1/64% tax rate on the taxable items and services under Subsection (1).

Section 3. Section **59-12-204** is amended to read:

59-12-204. Sales and use tax ordinance provisions -- Tax rate -- Distribution of tax revenues.

(1) The tax ordinance adopted pursuant to this part shall impose a tax upon those items listed in Section 59-12-103.

(2) Except as provided in Subsection 59-12-205(2), such tax ordinance shall include a provision imposing a tax upon every retail sale of items listed in Section 59-12-103 made within a county, including areas contained within the cities and towns thereof at the rate of 3/4% or any fractional part of such 3/4% of the purchase price paid or charged.

(3) Such tax ordinance shall include provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales or use tax, except that the name of the county as the taxing agency shall be substituted for that of the state where necessary for the purpose of this part and that an additional license is not required if one has been or is issued under Section 59-12-106.

(4) Such tax ordinance shall include a provision that the county shall contract, prior to the effective date of the ordinance, with the commission to perform all functions incident to the administration or operation of the ordinance.

(5) Such tax ordinance shall include a provision that the sale, storage, use, or other consumption of tangible personal property, the purchase price or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county, city, or town in any other county in this state, shall be exempt from the tax due under this

ordinance.

(6) Such tax ordinance shall include a provision that any person subject to the provisions of a city or town sales and use tax shall be exempt from the county sales and use tax if the city or town sales and use tax is levied under an ordinance including provisions in substance as follows:

(a) a provision imposing a tax upon every retail sale of items listed in Section 59-12-103 made within the city or town at the rate imposed by the county in which it is situated pursuant to Subsection (2);

(b) provisions substantially the same as those contained in Part 1, Tax Collection, insofar as they relate to sales and use taxes, except that the name of the city or town as the taxing agency shall be substituted for that of the state where necessary for the purposes of this part;

(c) a provision that the city or town shall contract prior to the effective date of the city or town sales and use tax ordinance with the commission to perform all functions incident to the administration or operation of the sales and use tax ordinance of the city or town;

(d) a provision that the sale, storage, use, or other consumption of tangible personal property, the gross receipts from the sale of or the cost of which has been subject to sales or use tax under a sales and use tax ordinance enacted in accordance with this part by any county other than the county in which the city or town is located, or city or town in this state, shall be exempt from the tax; and

(e) a provision that the amount of any tax paid under Part 1, Tax Collection, shall not be included as a part of the purchase price paid or charged for a taxable item.

(7) (a) Notwithstanding any other provision of this section, from January 1, 1990, through ~~[December 31]~~ June 30, 1999, the commission shall determine and retain the amount of revenue generated by a 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds provided for in Subsection 59-12-103(4) for the purposes of the Utah Sports Authority described in Title 63A, Chapter 7, Utah Sports Authority Act.

(b) ~~[Beginning]~~ Except for sales and use taxes deposited under Subsection (7)(c), beginning on ~~[January]~~ July 1, ~~[2000]~~ 1999, the amount of revenue generated by the 1/64% tax rate under Subsection (7)(a) shall be retained by the county, city, or town levying a tax under this section.

(c) Notwithstanding any other provision of this section, beginning on July 1, 1999, the

commission shall:

(i) determine and retain the portion of the sales and use tax imposed under this section:

(A) by a city or town that will have constructed within its boundaries the Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(B) that is equal to the revenues generated by a 1/64% tax rate; and

(ii) deposit the revenues described in Subsection (7)(c)(i) in the Airport to University of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes described in Section 17A-2-1064.

Section 4. Section **59-12-205** is amended to read:

59-12-205. Ordinances to conform with statutory amendments -- Distribution of tax revenues.

(1) Each county, city, and town, in order to maintain in effect sales and use tax ordinances pursuant to this part, shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments of their respective sales and use tax ordinances to conform with the amendments to Part 1, Tax Collection, insofar as they relate to sales and use taxes.

(2) Any county, city, or town may distribute its sales or use tax revenues by means other than point of sale or use by notifying the commission in writing of such decision, no later than 30 days before commencement of the next tax accrual period. After such notice is given, a county, city, or town may increase the tax authorized by this part to a total of 1% from and after January 1, 1990, of the purchase price paid or charged, excluding a public transit sales and use tax as provided in Section 59-12-501 and a resort communities sales tax as provided in Section 59-12-401. This tax shall be collected and distributed as follows:

(a) from July 1, 1992, through June 30, 1993, 45% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town providing notice under this section, based upon the percentage that the population of the county, city, or town bears to the total population of all such entities providing notice under this section, and 55% based upon the point of sale or use of the transaction; and

(b) from and after July 1, 1993, 50% of each dollar collected from the sales and use tax authorized by this part shall be paid to each county, city, and town providing notice under this section, based upon the percentage that the population of the county, city, or town bears to the total population of all such entities providing notice under this section, and 50% based upon the point of sale or use of the transaction.

(3) Notwithstanding any provision of Subsection (2), a county, city, or town that has given notice under this section may not receive a tax revenue distribution less than 3/4 of 1% of the taxable sales within its boundaries. The commission shall proportionally reduce quarterly distributions to any county, city, or town, which, but for the reduction, would receive a distribution in excess of 1% beginning January 1, 1990, of the sales and use tax revenue collected within its boundaries.

(4) (a) Notwithstanding any other provision of this section, from January 1, 1990, through ~~[December 31]~~ June 30, 1999, the commission shall determine and retain the amount of revenue generated by a 1/64% tax rate and deposit it in the Olympics Special Revenue Fund or funds provided for in Subsection 59-12-103(4) for the purposes of the Utah Sports Authority described in Title 63A, Chapter 7, Utah Sports Authority Act.

(b) [Beginning] Except for sales and use taxes deposited under Subsection (4)(c), beginning on [January] July 1, [2000] 1999, the amount of revenue generated by the 1/64% tax rate under Subsection (4)(a) shall be distributed to each county, city, and town as provided in this section.

(c) Notwithstanding any other provision of this section, beginning on July 1, 1999, the commission shall:

(i) determine and retain the portion of the sales and use tax imposed under this section:

(A) by a city or town that will have constructed within its boundaries the Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

(B) that is equal to the revenues generated by a 1/64% tax rate; and

(ii) deposit the revenues described in Subsection (4)(c)(i) in the Airport to University of Utah Light Rail Restricted Account created in Section 17A-2-1064 for the purposes described in Section 17A-2-1064.

(5) (a) Population figures for purposes of this section shall be based on the most recent official census or census estimate of the United States Bureau of the Census.

(b) If population estimates are not made for any county, city, or town by the United States Bureau of Census, population figures shall be determined according to the biennial estimate from the Utah Population Estimates Committee.

(6) The population of a county for purposes of this section shall be determined solely from the unincorporated area of the county.

Section 5. Section **63A-7-113** is amended to read:

63A-7-113. Disbursement of the Olympic Special Revenue Fund.

(1) As used in this section:

(a) "Base sales and use tax amount" means the first \$59,000,000 deposited in the Olympic Special Revenue Fund under Subsection 59-12-103(4);

(b) "Olympics Special Revenue Fund" means the fund or funds created under Subsection 59-12-103(4); and

(c) "Proportionate share" means the percentage of the total sales and use taxes deposited under Subsection 59-12-103(4) that are generated by a county or municipality.

(2) Beginning on [~~January 15, 2002~~] August 30, 1999, the monies in the Olympic Special Revenue Fund shall be distributed as follows:

(a) on or before August 30, 1999, each county or municipality described in Subsections (2)(b) and (c) shall receive the county's or municipality's proportionate share of:

(i) the sales and use taxes in excess of the base sales and use tax amount; and

(ii) interest on the amounts described in Subsection (2)(a)(i) for the period beginning on the day on which the sales and use taxes deposited into the Olympic Special Revenue Fund equal the base amount and ending on the day on which the disbursement is made to the county or municipality;

~~(a)~~ (b) on or before January 15, 2002, each county or municipality other than a county or municipality described in Subsection (2)(~~b~~)(c) shall receive the county's or municipality's proportionate share of~~[(i)]~~ amounts deposited into the Olympic Special Revenue Fund by a public sports entity as reimbursement of sales and use taxes deposited under Subsection 59-12-103(4); and

~~[(ii) (A) the sales and use taxes in excess of the base sales and use tax amount; and]
[(B) interest on the amounts described in Subsection (2)(a)(ii)(A) for the period beginning on the day on which the sales and use taxes deposited into the Olympic Special Revenue Fund equal the base amount and ending on the day on which the disbursement is made to the county or municipality;]~~

~~[(b)] (c) by no later than May 5, 2003, there may be distributed to any county or municipality that has entered into an indemnification agreement with the state regarding risks related to the Winter Olympic Games of 2002:~~

~~(i) the proportionate share of~~~~[(A)]~~ amounts deposited into the Olympic Special Revenue Fund by a public sports entity as reimbursement of sales and use taxes deposited under Subsection 59-12-103(4); and

~~[(B) (I) the sales and use taxes in excess of the base sales and use tax amount; and]
[(H) interest on the amounts described in Subsection (2)(b)(i)(B)(I) for the period beginning on the day on which the sales and use taxes deposited into the Olympic Special Revenue Fund equal the base amount and ending on the day on which the disbursement is made to the county or municipality; and]~~

~~(ii) interest on the amounts described in Subsection (2)~~~~[(b)(i)(A)]~~ (c)(i) for the period beginning on January 15, 2002, and ending on the day on which the disbursement is made to the county or municipality; and

~~[(e)]~~ (d) any monies in the Olympic Special Revenue Fund after the disbursement under Subsection (2)~~[(b)]~~ (c) shall be deposited in the General Fund.