

1 **SALES AND USE TAX DIVERSIONS**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Darin G. Peterson**

5 Allen M. Christensen
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7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Sales and Use Tax Act to address the expenditure of certain state
11 sales and use tax revenues.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ increases a limit on the amount of state sales and use tax revenues that may be
15 expended for certain projects;
- 16 ▶ requires that certain state sales and use tax revenues be transferred as dedicated
17 credits to and used by the Department of Natural Resources for watershed
18 rehabilitation or restoration;
- 19 ▶ addresses the treatment of unexpended dedicated credits; and
- 20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill takes effect on July 1, 2005.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **59-12-103 (Effective 07/01/05)**, as last amended by Chapter 1, Laws of Utah 2004,



28 Third Special Session

29 **59-12-1201**, as last amended by Chapters 156 and 255, Laws of Utah 2004

30

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

32 Section 1. Section **59-12-103 (Effective 07/01/05)** is amended to read:

33 **59-12-103 (Effective 07/01/05). Sales and use tax base -- Rates -- Effective dates --**

34 **Use of sales and use tax revenues.**

35 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
36 charged for the following transactions:

37 (a) retail sales of tangible personal property made within the state;

38 (b) amounts paid:

39 (i) (A) to a common carrier; or

40 (B) whether the following are municipally or privately owned, to a:

41 (I) telephone service provider; or

42 (II) telegraph corporation as defined in Section 54-2-1; and

43 (ii) for:

44 (A) all transportation;

45 (B) telephone service, other than mobile telecommunications service, that originates
46 and terminates within the boundaries of this state;

47 (C) mobile telecommunications service that originates and terminates within the
48 boundaries of one state only to the extent permitted by the Mobile Telecommunications

49 Sourcing Act, 4 U.S.C. Sec.116 et seq.; or

50 (D) telegraph service;

51 (c) sales of the following for commercial use:

52 (i) gas;

53 (ii) electricity;

54 (iii) heat;

55 (iv) coal;

56 (v) fuel oil; or

57 (vi) other fuels;

58 (d) sales of the following for residential use:

- 59 (i) gas;
- 60 (ii) electricity;
- 61 (iii) heat;
- 62 (iv) coal;
- 63 (v) fuel oil; or
- 64 (vi) other fuels;
- 65 (e) sales of prepared food;
- 66 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 67 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 68 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 69 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 70 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 71 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 72 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 73 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 74 exhibition, cultural, or athletic activity;
- 75 (g) amounts paid or charged for services:
- 76 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
- 77 provides for an exemption from sales and use tax for:
- 78 (A) the tangible personal property; and
- 79 (B) parts used in the repairs or renovations of the tangible personal property described
- 80 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or
- 81 renovations of that tangible personal property; or
- 82 (ii) to install tangible personal property in connection with other tangible personal
- 83 property, unless the tangible personal property being installed is exempt from sales and use tax
- 84 under Section 59-12-104;
- 85 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 86 cleaning or washing of tangible personal property;
- 87 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 88 accommodations and services that are regularly rented for less than 30 consecutive days;
- 89 (j) amounts paid or charged for laundry or dry cleaning services;

90 (k) amounts paid or charged for leases or rentals of tangible personal property if:

91 (i) the tangible personal property's situs is in this state;

92 (ii) the lessee took possession of the tangible personal property in this state; or

93 (iii) within this state the tangible personal property is:

94 (A) stored;

95 (B) used; or

96 (C) otherwise consumed;

97 (l) amounts paid or charged for tangible personal property if within this state the

98 tangible personal property is:

99 (i) stored;

100 (ii) used; or

101 (iii) consumed; and

102 (m) amounts paid or charged for prepaid telephone calling cards.

103 (2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax
104 and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

105 (i) a state tax imposed on the transaction at a rate of 4.75%; and

106 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
107 transaction under this chapter other than this part.

108 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a
109 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

110 (i) a state tax imposed on the transaction at a rate of 2%; and

111 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
112 transaction under this chapter other than this part.

113 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax
114 rate imposed under the following shall take effect on the first day of a calendar quarter:

115 (i) Subsection (2)(a)(i); or

116 (ii) Subsection (2)(b)(i).

117 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
118 effect on the first day of the first billing period:

119 (A) that begins after the effective date of the tax rate increase; and

120 (B) if the billing period for the transaction begins before the effective date of a tax rate

121 increase imposed under:

122 (I) Subsection (2)(a)(i); or

123 (II) Subsection (2)(b)(i).

124 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate

125 decrease shall take effect on the first day of the last billing period:

126 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;

127 and

128 (B) if the billing period for the transaction begins before the effective date of the repeal

129 of the tax or the tax rate decrease imposed under:

130 (I) Subsection (2)(a)(i); or

131 (II) Subsection (2)(b)(i).

132 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:

133 (A) Subsection (1)(b);

134 (B) Subsection (1)(c);

135 (C) Subsection (1)(d);

136 (D) Subsection (1)(e);

137 (E) Subsection (1)(f);

138 (F) Subsection (1)(g);

139 (G) Subsection (1)(h);

140 (H) Subsection (1)(i);

141 (I) Subsection (1)(j); or

142 (J) Subsection (1)(k).

143 (e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the

144 basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax

145 rate imposed under Subsection (2)(a)(i) takes effect:

146 (A) on the first day of a calendar quarter; and

147 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change

148 under Subsection (2)(a)(i).

149 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

150 the commission may by rule define the term "catalogue sale."

151 (3) (a) Except as provided in Subsections (4) through [~~(7)~~] (8), the following state

152 taxes shall be deposited into the General Fund:

153 (i) the tax imposed by Subsection (2)(a)(i); or

154 (ii) the tax imposed by Subsection (2)(b)(i).

155 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed
156 to a county, city, or town as provided in this chapter.

157 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
158 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
159 through (g):

160 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

161 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

162 (B) for the fiscal year; or

163 (ii) [~~\$17,500,000~~] \$18,000,000.

164 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
165 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
166 Department of Natural Resources to:

167 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
168 protect sensitive plant and animal species; or

169 (B) award grants, up to the amount authorized by the Legislature in an appropriations
170 act, to political subdivisions of the state to implement the measures described in Subsections
171 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

172 (ii) Money transferred to the Department of Natural Resources under Subsection
173 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
174 person to list or attempt to have listed a species as threatened or endangered under the
175 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

176 (iii) At the end of each fiscal year:

177 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
178 Conservation and Development Fund created in Section 73-10-24;

179 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
180 Program Subaccount created in Section 73-10c-5; and

181 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
182 Program Subaccount created in Section 73-10c-5.

183 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
184 Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource Development
185 Fund created in Section 4-18-6.

186 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
187 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
188 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
189 water rights.

190 (ii) At the end of each fiscal year:

191 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
192 Conservation and Development Fund created in Section 73-10-24;

193 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
194 Program Subaccount created in Section 73-10c-5; and

195 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
196 Program Subaccount created in Section 73-10c-5.

197 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
198 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
199 Fund created in Section 73-10-24 for use by the Division of Water Resources.

200 (ii) In addition to the uses allowed of the Water Resources Conservation and
201 Development Fund under Section 73-10-24, the Water Resources Conservation and
202 Development Fund may also be used to:

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

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

211 (C) fund state required dam safety improvements; and

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

214 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
215 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount
216 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

217 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
218 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
219 created in Section 73-10c-5 for use by the Division of Drinking Water to:

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

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

223 (iii) develop surface water sources.

224 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
225 2005, \$3,000,000 shall be:

226 (i) transferred each fiscal year to the Department of Natural Resources as dedicated
227 credits; and

228 (ii) expended by the Department of Natural Resources for:

229 (A) watershed rehabilitation; or

230 (B) watershed restoration.

231 (b) At the end of each fiscal year:

232 (i) 50% of any unexpended dedicated credits described in Subsection (5)(a) shall lapse
233 to the Water Resources Conservation and Development Fund created in Section 73-10-24;

234 (ii) 25% of any unexpended dedicated credits described in Subsection (5)(a) shall lapse
235 to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

236 (iii) 25% of any unexpended dedicated credits described in Subsection (5)(a) shall
237 lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

238 [~~5~~] (6) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after
239 July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections [~~5~~]
240 (6)(b) through (d):

241 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

242 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

243 (B) for the fiscal year; or

244 (ii) \$18,743,000.

245 (b) (i) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described
246 in Subsection [~~(5)~~] (6)(a) shall be deposited each year in the Transportation Corridor
247 Preservation Revolving Loan Fund created in Section 72-2-117.

248 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation
249 Revolving Loan Fund under Subsection [~~(5)~~] (6)(b)(i) shall be used to fund loan applications
250 made by the Department of Transportation at the request of local governments.

251 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
252 Subsection [~~(5)~~] (6)(a) shall be transferred each year as nonlapsing dedicated credits to the
253 Department of Transportation for the State Park Access Highways Improvement Program
254 created in Section 72-3-207.

255 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in
256 Subsection [~~(5)~~] (6)(a) shall be deposited in the class B and class C roads account to be
257 expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class
258 B and C roads.

259 [~~(6)~~] (7) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the
260 Division of Finance shall deposit into the Centennial Highway Fund created in Section
261 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
262 by a 1/64% tax rate on the taxable transactions under Subsection (1).

263 [~~(7)~~] (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after
264 fiscal year 2004-05, the commission shall each year on or before the September 30 immediately
265 following the last day of the fiscal year deposit the difference described in Subsection [~~(7)~~]
266 (8)(b) into the Remote Sales Restricted Account created in Section 59-12-103.2 if that
267 difference is greater than \$0.

268 (b) The difference described in Subsection [~~(7)~~] (8)(a) is equal to the difference
269 between:

270 (i) the total amount of the following revenues the commission received from sellers
271 collecting a tax in accordance with Subsection 59-12-107(1)(b) for the fiscal year immediately
272 preceding the September 30 described in Subsection [~~(7)~~] (8)(a):

273 (A) revenues under Subsection (2)(a)(i); and

274 (B) revenues under Subsection (2)(b)(i); and

275 (ii) \$7,279,673.

276 Section 2. Section **59-12-1201** is amended to read:

277 **59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration,**
278 **collection, and enforcement of tax -- Deposits -- Effective dates.**

279 (1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all
280 short-term leases and rentals of motor vehicles not exceeding 30 days.

281 (b) The tax imposed in this section is in addition to all other state, county, or municipal
282 fees and taxes imposed on rentals of motor vehicles.

283 (2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax
284 imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

285 (b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall
286 take effect on the first day of the first billing period:

287 (A) that begins after the effective date of the tax rate increase; and

288 (B) if the billing period for the transaction begins before the effective date of a tax rate
289 increase imposed under Subsection (1).

290 (ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax
291 rate decrease shall take effect on the first day of the last billing period:

292 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
293 and

294 (B) if the billing period for the transaction begins before the effective date of the repeal
295 of the tax or the tax rate decrease imposed under Subsection (1).

296 (3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

297 (a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

298 (b) the motor vehicle is rented as a personal household goods moving van; or

299 (c) the lease or rental of the motor vehicle is made for the purpose of temporarily
300 replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an
301 insurance agreement.

302 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the tax authorized under this
303 section shall be administered, collected, and enforced in accordance with:

304 (A) the same procedures used to administer, collect, and enforce the tax under:

305 (I) Part 1, Tax Collection; or

306 (II) Part 2, Local Sales and Use Tax Act; and

307 (B) Chapter 1, General Taxation Policies.
308 (ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to:
309 (A) Subsections 59-12-103(4) through [~~7~~] (8);
310 (B) Sections 59-12-107.1 through 59-12-107.3;
311 (C) Subsections 59-12-205(2) through (9); or
312 (D) Sections 59-12-207.1 through 59-12-207.4.
313 (b) The commission may retain a maximum of 1-1/2% of the tax collected under this
314 section for the costs of rendering its services under this section.
315 (c) Except as provided under Subsection (4)(b), all revenue received by the
316 commission under this section shall be deposited daily with the state treasurer and credited
317 monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section
318 72-2-117.
319 Section 3. **Effective date.**
320 This bill takes effect on July 1, 2005.

Legislative Review Note
as of 2-7-05 5:04 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

State Impact

Passage of this bill could decrease the General Fund by \$3,500,000 annually. Funding would be diverted into restricted accounts identified in the bill.

	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2006</u> <u>Revenue</u>	<u>FY 2007</u> <u>Revenue</u>
General Fund	\$0	\$0	(\$3,500,000)	(\$3,500,000)
Restricted Funds	\$0	\$0	\$3,500,000	\$3,500,000
TOTAL	\$0	\$0	\$0	\$0

Individual and Business Impact

No fiscal impact.
