

Senator Darin G. Peterson proposes the following substitute bill:

**SALES AND USE TAX DIVERSIONS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Darin G. Peterson**

Allen M. Christensen  
Mike Dmitrich

Beverly Ann Evans  
Thomas V. Hatch

John W. Hickman

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2005.

**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

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

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

32 **59-12-103 (Effective 07/01/05). Sales and use tax base -- Rates -- Effective dates --**  
33 **Use of sales and use tax revenues.**

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

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

37 (b) amounts paid:

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

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

40 (I) telephone service provider; or

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

42 (ii) for:

43 (A) all transportation;

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

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

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

49 (D) telegraph service;

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

51 (i) gas;

52 (ii) electricity;

53 (iii) heat;

54 (iv) coal;

55 (v) fuel oil; or

56 (vi) other fuels;

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

- 88 (j) amounts paid or charged for laundry or dry cleaning services;
- 89 (k) amounts paid or charged for leases or rentals of tangible personal property if:
  - 90 (i) the tangible personal property's situs is in this state;
  - 91 (ii) the lessee took possession of the tangible personal property in this state; or
  - 92 (iii) within this state the tangible personal property is:
    - 93 (A) stored;
    - 94 (B) used; or
    - 95 (C) otherwise consumed;
- 96 (l) amounts paid or charged for tangible personal property if within this state the
- 97 tangible personal property is:
  - 98 (i) stored;
  - 99 (ii) used; or
  - 100 (iii) consumed; and
- 101 (m) amounts paid or charged for prepaid telephone calling cards.
- 102 (2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax
- 103 and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:
  - 104 (i) a state tax imposed on the transaction at a rate of 4.75%; and
  - 105 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
  - 106 transaction under this chapter other than this part.
- 107 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a
- 108 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:
  - 109 (i) a state tax imposed on the transaction at a rate of 2%; and
  - 110 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
  - 111 transaction under this chapter other than this part.
- 112 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax
- 113 rate imposed under the following shall take effect on the first day of a calendar quarter:
  - 114 (i) Subsection (2)(a)(i); or
  - 115 (ii) Subsection (2)(b)(i).
- 116 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
- 117 effect on the first day of the first billing period:
  - 118 (A) that begins after the effective date of the tax rate increase; and

119 (B) if the billing period for the transaction begins before the effective date of a tax rate  
120 increase imposed under:

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

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

123 (ii) For a transaction described in Subsection (2)(d)(iii), the repeal of a tax or a tax rate  
124 decrease shall take effect on the first day of the last billing period:

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

127 (B) if the billing period for the transaction begins before the effective date of the repeal  
128 of the tax or the tax rate decrease imposed under:

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

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

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

132 (A) Subsection (1)(b);

133 (B) Subsection (1)(c);

134 (C) Subsection (1)(d);

135 (D) Subsection (1)(e);

136 (E) Subsection (1)(f);

137 (F) Subsection (1)(g);

138 (G) Subsection (1)(h);

139 (H) Subsection (1)(i);

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

141 (J) Subsection (1)(k).

142 (e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the  
143 basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax  
144 rate imposed under Subsection (2)(a)(i) takes effect:

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

146 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change  
147 under Subsection (2)(a)(i).

148 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
149 the commission may by rule define the term "catalogue sale."

150 (3) (a) Except as provided in Subsections (4) through [~~(7)~~] (8), the following state  
151 taxes shall be deposited into the General Fund:

- 152 (i) the tax imposed by Subsection (2)(a)(i); or
- 153 (ii) the tax imposed by Subsection (2)(b)(i).

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

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

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

- 160 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 161 (B) for the fiscal year; or

162 (ii) [~~\$17,500,000~~] \$21,000,000.

163 (b) (i) For a fiscal year beginning on or after July 1, 2005, the first \$3,000,000 of the  
164 amount described in Subsection (4)(a) shall be:

165 (A) transferred each fiscal year to the Department of Natural Resources as dedicated  
166 credits; and

167 (B) expended by the Department of Natural Resources for:

- 168 (I) watershed rehabilitation; or
- 169 (II) watershed restoration.

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

171 (A) 50% of any unexpended dedicated credits described in Subsection (4)(b)(i) shall  
172 lapse to the Water Resources Conservation and Development Fund created in Section  
173 73-10-24;

174 (B) 25% of any unexpended dedicated credits described in Subsection (4)(b)(i) shall  
175 lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

176 (C) 25% of any unexpended dedicated credits described in Subsection (4)(b)(i) shall  
177 lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

178 (c) The difference between the following amounts shall be used as provided in  
179 Subsections (4)(d) through (i):

180 (i) the amount described in Subsection (4)(a); and

181 (ii) the \$3,000,000 described in Subsection (4)(b)(i).

182 [~~(b)~~] (d) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
183 described in Subsection (4)[~~(a)~~](c) shall be transferred each year as dedicated credits to the  
184 Department of Natural Resources to:

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

187 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
188 act, to political subdivisions of the state to implement the measures described in Subsections  
189 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

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

204 [~~(f)~~] (f) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount  
205 described in Subsection (4)[~~(a)~~](c) shall be transferred each year as dedicated credits to the  
206 Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the  
207 adjudication of water rights.

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

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

211 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

212 Program Subaccount created in Section 73-10c-5; and

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

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

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

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

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

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

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

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

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

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

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

242 (iii) develop surface water sources.



243 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
244 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)  
245 through (d):

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

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

248 (B) for the fiscal year; or

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

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

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

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

260 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in  
261 Subsection (5)(a) shall be deposited in the class B and class C roads account to be expended as  
262 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C  
263 roads.

264 (6) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of  
265 Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion  
266 of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate  
267 on the taxable transactions under Subsection (1).

268 (7) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal  
269 year 2004-05, the commission shall each year on or before the September 30 immediately  
270 following the last day of the fiscal year deposit the difference described in Subsection (7)(b)  
271 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is  
272 greater than \$0.

273 (b) The difference described in Subsection (7)(a) is equal to the difference between:

274 (i) the total amount of the following revenues the commission received from sellers  
275 collecting a tax in accordance with Subsection 59-12-107(1)(b) for the fiscal year immediately  
276 preceding the September 30 described in Subsection (7)(a):

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

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

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

280 **Section 2. Effective date.**

281 This bill takes effect on July 1, 2005.

**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
<b>TOTAL</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

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**Individual and Business Impact**

No fiscal impact.

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