

**TRANSPORTATION INVESTMENT ACT**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rebecca D. Lockhart**

Senate Sponsor: Carlene M. Walker

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**LONG TITLE**

**General Description:**

This bill modifies the Sales and Use Tax Act and the Transportation Code by increasing funding for transportation.

**Highlighted Provisions:**

This bill:

- ▶ provides that a portion of the sales and use tax revenue shall be deposited annually into the Transportation Investment Fund of 2005 if appropriated by the Legislature and not vetoed by the governor; and

- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2006.

**Utah Code Sections Affected:**

AMENDS:

**59-12-103 (Effective 07/01/06)**, as last amended by Chapter 1, Laws of Utah 2005, First Special Session

**72-2-124**, as enacted by Chapter 1, Laws of Utah 2005, First Special Session

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



28 Section 1. Section **59-12-103 (Effective 07/01/06)** is amended to read:

29 **59-12-103 (Effective 07/01/06). Sales and use tax base -- Rates -- Effective dates --**

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

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

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

34 (b) amounts paid:

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

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

37 (I) telephone service provider; or

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

39 (ii) for:

40 (A) all transportation;

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

43 (C) mobile telecommunications service that originates and terminates within the  
44 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
45 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

46 (D) telegraph service;

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

48 (i) gas;

49 (ii) electricity;

50 (iii) heat;

51 (iv) coal;

52 (v) fuel oil; or

53 (vi) other fuels;

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

55 (i) gas;

56 (ii) electricity;

57 (iii) heat;

58 (iv) coal;

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

90 (ii) used; or

91 (iii) consumed; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 121 (II) Subsection (2)(b)(i).
- 122 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:
- 123 (A) Subsection (1)(b);
- 124 (B) Subsection (1)(c);
- 125 (C) Subsection (1)(d);
- 126 (D) Subsection (1)(e);
- 127 (E) Subsection (1)(f);
- 128 (F) Subsection (1)(g);
- 129 (G) Subsection (1)(h);
- 130 (H) Subsection (1)(i);
- 131 (I) Subsection (1)(j); or
- 132 (J) Subsection (1)(k).
- 133 (e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the
- 134 basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax
- 135 rate imposed under Subsection (2)(a)(i) takes effect:
- 136 (A) on the first day of a calendar quarter; and
- 137 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change
- 138 under Subsection (2)(a)(i).
- 139 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
- 140 the commission may by rule define the term "catalogue sale."
- 141 (3) (a) Except as provided in Subsections (4) through (7), the following state taxes
- 142 shall be deposited into the General Fund:
- 143 (i) the tax imposed by Subsection (2)(a)(i); or
- 144 (ii) the tax imposed by Subsection (2)(b)(i).
- 145 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed
- 146 to a county, city, or town as provided in this chapter.
- 147 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 148 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
- 149 through (g):
- 150 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 151 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

152 (B) for the fiscal year; or

153 (ii) \$17,500,000.

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

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

159 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
160 act, to political subdivisions of the state to implement the measures described in Subsections  
161 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

213 (iii) develop surface water sources.

214 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
215 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)  
216 through (d):

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

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

219 (B) for the fiscal year; or

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

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

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

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

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

235 (6) (a) Notwithstanding Subsection (3)(a) and until Subsection (6)(b) applies,  
236 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial  
237 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed  
238 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable  
239 transactions under Subsection (1).

240 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds  
241 have been paid off and the highway projects completed that are intended to be paid from  
242 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
243 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of  
244 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section



245 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
246 by a 1/64% tax rate on the taxable transactions under Subsection (1).

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

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

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

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

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

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

259 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
260 Subsection (6)(a), and until Subsection (8)(b) applies, for a fiscal year beginning on or after  
261 July 1, 2005, the Division of Finance shall deposit \$59,594,700 of the revenues generated by  
262 the taxes described in Subsections (2)(a)(i) and (2)(b)(i) into the Centennial Highway Fund  
263 Restricted Account created by Section 72-2-118.

264 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under  
265 Subsection (6)(b), when the highway general obligation bonds have been paid off and the  
266 highway projects completed that are intended to be paid from revenues deposited in the  
267 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations  
268 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit  
269 \$59,594,700 of the revenues generated by the taxes described in Subsections (2)(a)(i) and  
270 (2)(b)(i) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

271 (9) (a) Notwithstanding Subsection (3)(a), for fiscal year 2007 only, if the Legislature  
272 appropriates the amount identified in this Subsection (9)(a) and the governor does not veto the  
273 appropriation, the Division of Finance shall deposit into the Transportation Investment Fund of  
274 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to  
275 the revenues generated by a .55% tax rate on the taxable transactions under Subsection (1)

276 minus the amount deposited under Subsection (8), which represents a portion of the amount of  
277 revenue generated by the sales and use tax on vehicles and vehicle-related products.

278 (b) Notwithstanding Subsection (3)(a) and in addition to any amount deposited under  
279 Subsection (6)(b), for a fiscal year beginning on or after July 1, 2007, if the Legislature  
280 appropriates the amount identified in this Subsection (9)(b) and the governor does not veto the  
281 appropriation, the Division of Finance shall deposit into the Transportation Investment Fund of  
282 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to  
283 the revenues generated by a .71% tax rate on the taxable transactions under Subsection (1)  
284 minus the amount deposited under Subsection (8), which represents a portion of the amount of  
285 revenue generated by the sales and use tax on vehicles and vehicle-related products.

286 (c) Nothing in this Subsection (9) requires the governor to include the amounts  
287 authorized under this Subsection (9) in the budget that the governor submits to the Legislature  
288 under Section 63-38-3.2.

289 Section 2. Section **72-2-124** is amended to read:

290 **72-2-124. Transportation Investment Fund of 2005.**

291 (1) There is created a special revenue fund entitled the Transportation Investment Fund  
292 of 2005.

293 (2) The fund consists of monies generated from the following sources:

294 (a) any voluntary contributions received for the maintenance, construction,  
295 reconstruction, or renovation of state and federal highways; ~~and~~

296 (b) appropriations made to the fund by the Legislature~~[-]; and~~

297 (c) the sales and use tax amounts provided for in Subsection 59-12-103(9).

298 (3) When the highway general obligation bonds have been paid off and the highway  
299 projects completed that are intended to be paid from revenues deposited in the Centennial  
300 Highway Fund Restricted Account as determined by the Executive Appropriations Committee  
301 under Subsection 72-2-118(6)(d), the fund shall also consist of monies generated from the  
302 following sources:

303 (a) registration fees designated under Subsection 41-1a-1201(6)(a);

304 (b) the clean special fuel tax certificate surcharge under Subsection 59-13-304(3); and

305 (c) the sales and use tax amounts provided for in Subsections 59-12-103(6)(b) and

306 (8)(b).

307 (4) (a) The fund shall earn interest.

308 (b) All interest earned on fund monies shall be deposited into the fund.

309 (5) (a) Except as provided in Subsection (5)(b), the executive director may use fund  
310 monies only to pay the costs of maintenance, construction, reconstruction, or renovation to  
311 state and federal highways prioritized by the Transportation Commission through the  
312 prioritization process for new transportation capacity projects adopted under Section 72-1-304.

313 (b) The executive director may use fund monies deposited into the fund in fiscal year  
314 2006 only to pay the costs of maintenance, construction, reconstruction, or renovation to state  
315 and federal highways prioritized by the Transportation Commission.

316 Section 3. **Effective date.**

317 This bill takes effect on July 1, 2006.

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**Legislative Review Note**

**as of 12-29-05 12:10 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**