

**SALES AND USE TAX - COMMON CARRIERS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Wayne A. Harper**

Senate Sponsor: Curtis S. Bramble

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**LONG TITLE**

**General Description:**

This bill amends the Sales and Use Tax Act relating to the taxation of common carriers.

**Highlighted Provisions:**

This bill:

- ▶ repeals from the list of transactions subject to sales and use taxation amounts paid to a common carrier for certain telephone service, mobile telecommunications service, or telegraph service; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill takes effect on July 1, 2007.

**Utah Code Sections Affected:**

AMENDS:

**59-12-103**, as last amended by Chapter 9, Laws of Utah 2006, Third Special Session

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

Section 1. Section **59-12-103** is amended to read:

**59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.**



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

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

31 (b) amounts paid:

32 [~~(i) (A) to a common carrier; or~~]

33 [~~(B) whether the following are municipally or privately owned, to a:~~]

34 (i) to a:

35 [~~(A)~~] (A) telephone service provider regardless of whether the telephone service  
36 provider is municipally or privately owned; or

37 [~~(B)~~] (B) telegraph corporation;

38 (I) as defined in Section 54-2-1; and

39 (II) regardless of whether the telegraph corporation is municipally or privately owned;

40 and

41 (ii) for:

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

44 (B) mobile telecommunications service that originates and terminates within the  
45 boundaries of one state only to the extent permitted by the Mobile Telecommunications

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

47 (C) telegraph service;

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

49 (i) gas;

50 (ii) electricity;

51 (iii) heat;

52 (iv) coal;

53 (v) fuel oil; or

54 (vi) other fuels;

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

56 (i) gas;

57 (ii) electricity;

58 (iii) heat;

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

90 (i) stored;

91 (ii) used; or

92 (iii) consumed; and

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

94 (2) (a) Except as provided in Subsection (2)(b) or (f), a state tax and a local tax is

95 imposed on a transaction described in Subsection (1) equal to the sum of:

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

97 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

98 transaction under this chapter other than this part.

99 (b) (i) A state tax and a local tax is imposed on a transaction described in Subsection

100 (1)(d) equal to the sum of:

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

102 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

103 transaction under this chapter other than this part; or

104 (ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a

105 transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction

106 equal to the sum of:

107 (A) a state tax imposed on the transaction at a rate of:

108 (I) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

109 (II) 2% for a transaction described in Subsection (1)(d); and

110 (B) a local tax imposed on the transaction at a rate equal to the sum of the following

111 rates:

112 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,

113 and towns in the state impose the tax under Section 59-12-204; and

114 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the

115 state impose the tax under Section 59-12-1102.

116 (iii) Except as provided in Subsection (2)(f), beginning on January 1, 2007, a state tax

117 and a local tax is imposed on amounts paid or charged for food and food ingredients equal to

118 the sum of:

119 (A) a state tax imposed on the amounts paid or charged for food and food ingredients

120 at a rate of 2.75%; and

121 (B) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
122 amounts paid or charged for food and food ingredients under this chapter other than this part.

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

- 125 (i) Subsection (2)(a)(i);
- 126 (ii) Subsection (2)(b)(i)(A);
- 127 (iii) Subsection (2)(b)(ii)(A); or
- 128 (iv) Subsection (2)(b)(iii)(A).

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

- 131 (A) that begins after the effective date of the tax rate increase; and
- 132 (B) if the billing period for the transaction begins before the effective date of a tax rate  
133 increase imposed under:

- 134 (I) Subsection (2)(a)(i);
- 135 (II) Subsection (2)(b)(i)(A); or
- 136 (III) Subsection (2)(b)(ii)(A).

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

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

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

- 143 (I) Subsection (2)(a)(i);
- 144 (II) Subsection (2)(b)(i)(A); or
- 145 (III) Subsection (2)(b)(ii)(A).

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

- 147 (A) Subsection (1)(b);
- 148 (B) Subsection (1)(c);
- 149 (C) Subsection (1)(d);
- 150 (D) Subsection (1)(e);
- 151 (E) Subsection (1)(f);

- 152 (F) Subsection (1)(g);
- 153 (G) Subsection (1)(h);
- 154 (H) Subsection (1)(i);
- 155 (I) Subsection (1)(j); or
- 156 (J) Subsection (1)(k).

157 (e) (i) If a tax due under Subsection (2)(a)(i) or (2)(b)(ii)(A) on a catalogue sale is  
158 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or  
159 change in a tax rate imposed under Subsection (2)(a)(i) or (2)(b)(ii)(A) takes effect:

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

161 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change  
162 under Subsection (2)(a)(i) or (2)(b)(ii)(A).

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

165 (f) If the price of a bundled transaction is attributable to food and food ingredients and  
166 tangible personal property other than food and food ingredients, the tax imposed on the entire  
167 bundled transaction is the sum of the tax rates described in Subsection (2)(a).

168 (3) (a) Except as provided in Subsections (4) through (9), the following state taxes  
169 shall be deposited into the General Fund:

170 (i) the tax imposed by Subsection (2)(a)(i);

171 (ii) the tax imposed by Subsection (2)(b)(i)(A);

172 (iii) the tax imposed by Subsection (2)(b)(ii)(A); or

173 (iv) the tax imposed by Subsection (2)(b)(iii)(A).

174 (b) The local taxes described in Subsections (2)(a)(ii), (2)(b)(i)(B), and (2)(b)(iii)(B)  
175 shall be distributed to a county, city, or town as provided in this chapter.

176 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the  
177 state shall receive the county's, city's, or town's proportionate share of the revenues generated  
178 by the local tax described in Subsection (2)(b)(ii)(B) as provided in Subsection (3)(c)(ii).

179 (ii) The commission shall determine a county's, city's, or town's proportionate share of  
180 the revenues under Subsection (3)(c)(i) by:

181 (A) calculating an amount equal to the population of the unincorporated area of the  
182 county, city, or town divided by the total population of the state; and

183 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total  
184 amount of revenues generated by the local tax under Subsection (2)(b)(ii)(B) for all counties,  
185 cities, and towns.

186 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for  
187 purposes of this section shall be derived from the most recent official census or census estimate  
188 of the United States Census Bureau.

189 (B) If a needed population estimate is not available from the United States Census  
190 Bureau, population figures shall be derived from the estimate from the Utah Population  
191 Estimates Committee created by executive order of the governor.

192 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
193 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
194 through (g):

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

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

197 (B) for the fiscal year; or

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

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

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

204 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
205 act, to political subdivisions of the state to implement the measures described in Subsections  
206 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

243 (B) fund state required dam safety improvements; and

244 (C) protect the state's interest in interstate water compact allocations, including the



245 hiring of technical and legal staff.

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

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

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

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

255 (iii) develop surface water sources.

256 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
257 2006, the difference between the following amounts shall be expended as provided in this  
258 Subsection (5), if that difference is greater than \$1:

259 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
260 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

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

262 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

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

265 (B) expended by the Department of Natural Resources for watershed rehabilitation or  
266 restoration.

267 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
268 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
269 created in Section 73-10-24.

270 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
271 remaining difference described in Subsection (5)(a) shall be:

272 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
273 credits; and

274 (B) expended by the Division of Water Resources for cloud-seeding projects  
275 authorized by Title 73, Chapter 15, Modification of Weather.

276 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
277 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
278 created in Section 73-10-24.

279 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
280 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
281 Resources Conservation and Development Fund created in Section 73-10-24 for use by the  
282 Division of Water Resources for:

283 (i) preconstruction costs:

284 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
285 26, Bear River Development Act; and

286 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
287 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

288 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
289 Chapter 26, Bear River Development Act;

290 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
291 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

292 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and  
293 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

294 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water  
295 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

296 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to  
297 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be  
298 transferred each year as dedicated credits to the Division of Water Rights to cover the costs  
299 incurred for employing additional technical staff for the administration of water rights.

300 (g) At the end of each fiscal year, any unexpended dedicated credits described in  
301 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development  
302 Fund created in Section 73-10-24.

303 (6) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
304 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)  
305 through (d):

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

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

308 (B) for the fiscal year; or

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

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

313 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation  
314 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made  
315 by the Department of Transportation at the request of local governments.

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

320 (d) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in  
321 Subsection (6)(a) shall be deposited in the class B and class C roads account to be expended as  
322 provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C  
323 roads.

324 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,  
325 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial  
326 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed  
327 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable  
328 transactions under Subsection (1).

329 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds  
330 have been paid off and the highway projects completed that are intended to be paid from  
331 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
332 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of  
333 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
334 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
335 by a 1/64% tax rate on the taxable transactions under Subsection (1).

336 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal  
337 year 2004-05, the commission shall each year on or before the September 30 immediately

338 following the last day of the fiscal year deposit the difference described in Subsection (8)(b)  
339 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is  
340 greater than \$0.

341 (b) The difference described in Subsection (8)(a) is equal to the difference between:

342 (i) the total amount of the revenues under Subsections (2)(b)(ii)(A) and (2)(b)(iii)(A)  
343 the commission received from sellers collecting a tax in accordance with Subsection  
344 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in  
345 Subsection (8)(a); and

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

347 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
348 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after  
349 July 1, 2006, the Division of Finance shall deposit into the Centennial Highway Fund  
350 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection  
351 (3)(a) equal to 8.3% of the revenues collected from the taxes described in Subsections (2)(a)(i),  
352 (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the approximately 17% of sales  
353 and use tax revenues generated annually by the sales and use tax on vehicles and  
354 vehicle-related products.

355 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under  
356 Subsection (7)(b), when the highway general obligation bonds have been paid off and the  
357 highway projects completed that are intended to be paid from revenues deposited in the  
358 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations  
359 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the  
360 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes  
361 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the taxes described  
362 in Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the  
363 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
364 on vehicles and vehicle-related products.

365 **Section 2. Effective date.**

366 This bill takes effect on July 1, 2007.

**Legislative Review Note**  
as of 11-15-06 3:07 PM

**Office of Legislative Research and General Counsel**

**Interim Committee Note**  
as of 12-19-06 10:03 AM

The Revenue and Taxation Interim Committee recommended this bill.

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**H.B. 41 - Sales and Use Tax - Common Carriers**

**Fiscal Note**

2007 General Session  
State of Utah

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**State Impact**

Enactment of this bill would have no impact on current revenues.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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*12/22/2006, 10:41:13 AM, Lead Analyst: Wilko, A.*

**Office of the Legislative Fiscal Analyst**