

Representative Carol Spackman Moss proposes the following substitute bill:

**TAX REVISIONS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John Dougall**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends the Sales and Use Tax Act to provide that food and food ingredients are generally not subject to the state sales and use tax.

**Highlighted Provisions:**

This bill:

- ▶ provides that food and food ingredients are not subject to the state sales and use tax, except with respect to certain bundled transactions; 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:



26           **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
27 **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) telephone service provider; or

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

36           (ii) for:

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

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

42           (C) telegraph service;

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

44           (i) gas;

45           (ii) electricity;

46           (iii) heat;

47           (iv) coal;

48           (v) fuel oil; or

49           (vi) other fuels;

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

51           (i) gas;

52           (ii) electricity;

53           (iii) heat;

54           (iv) coal;

55           (v) fuel oil; or

56           (vi) other fuels;

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

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

89 (2) (a) Except as provided in Subsection (2)(b) or (f), a state tax and a local tax is  
90 imposed on a transaction described in Subsection (1) equal to the sum of:

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

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

94 (b) (i) A state tax and a local tax is imposed on a transaction described in Subsection  
95 (1)(d) equal to the sum of:

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

97 (B) 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; or

99 (ii) if a seller collects a tax in accordance with Subsection 59-12-107(1)(b) on a  
100 transaction described in Subsection (1), a state tax and a local tax is imposed on the transaction  
101 equal to the sum of:

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

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

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

105 (B) a local tax imposed on the transaction at a rate equal to the sum of the following  
106 rates:

107 (I) the tax rate authorized by Section 59-12-204, but only if all of the counties, cities,  
108 and towns in the state impose the tax under Section 59-12-204; and

109 (II) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the  
110 state impose the tax under Section 59-12-1102.

111 (iii) Except as provided in Subsection (2)(f), [~~beginning on January 1, 2007;~~] a state tax  
112 and a local tax is imposed on amounts paid or charged for food and food ingredients equal to  
113 the sum of:

114 (A) a state tax imposed on the amounts paid or charged for food and food ingredients  
115 at a rate of [~~2.75~~] 0%; and

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

118 (c) Subject to Subsections (2)(d) and (e), a tax rate repeal or tax rate change for a tax

119 rate imposed under the following shall take effect on the first day of a calendar quarter:

- 120 (i) Subsection (2)(a)(i);
- 121 (ii) Subsection (2)(b)(i)(A);
- 122 (iii) Subsection (2)(b)(ii)(A); or
- 123 (iv) Subsection (2)(b)(iii)(A).

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

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

- 129 (I) Subsection (2)(a)(i);
- 130 (II) Subsection (2)(b)(i)(A); or
- 131 (III) Subsection (2)(b)(ii)(A).

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

- 134 (A) that began before the effective date of the repeal of the tax or the tax rate decrease;
- 135 and

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

- 138 (I) Subsection (2)(a)(i);
- 139 (II) Subsection (2)(b)(i)(A); or
- 140 (III) Subsection (2)(b)(ii)(A).

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

- 142 (A) Subsection (1)(b);
- 143 (B) Subsection (1)(c);
- 144 (C) Subsection (1)(d);
- 145 (D) Subsection (1)(e);
- 146 (E) Subsection (1)(f);
- 147 (F) Subsection (1)(g);
- 148 (G) Subsection (1)(h);
- 149 (H) Subsection (1)(i);

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

151 (J) Subsection (1)(k).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

187 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
188 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
189 through (g):

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

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

192 (B) for the fiscal year; or

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

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

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

199 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
200 act, to political subdivisions of the state to implement the measures described in Subsections  
201 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

211 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

212 Program Subaccount created in Section 73-10c-5.

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

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

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

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

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

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

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

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

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

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

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

241 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
242 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount



243 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

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

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

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

250 (iii) develop surface water sources.

251 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
252 2006, the difference between the following amounts shall be expended as provided in this  
253 Subsection (5), if that difference is greater than \$1:

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

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

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

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

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

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

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

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

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

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

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

278 (i) preconstruction costs:

279 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
280 26, Bear River Development Act; and

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

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

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

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

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

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

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

298 (6) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
299 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)  
300 through (d):

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

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

303 (B) for the fiscal year; or

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

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

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

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

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

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

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

331 (8) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal  
332 year 2004-05, the commission shall each year on or before the September 30 immediately  
333 following the last day of the fiscal year deposit the difference described in Subsection (8)(b)  
334 into the Remote Sales Restricted Account created in Section 59-12-103.2 if that difference is  
335 greater than \$0.

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

337 (i) the total amount of the revenues under Subsections (2)(b)(ii)(A) and (2)(b)(iii)(A)

338 the commission received from sellers collecting a tax in accordance with Subsection

339 59-12-107(1)(b) for the fiscal year immediately preceding the September 30 described in

340 Subsection (8)(a); and

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

342 (9) (a) Notwithstanding Subsection (3)(a), in addition to the amount deposited in

343 Subsection (7)(a), and until Subsection (9)(b) applies, for a fiscal year beginning on or after

344 July 1, 2006, the Division of Finance shall deposit into the Centennial Highway Fund

345 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection

346 (3)(a) equal to 8.3% of the revenues collected from the taxes described in Subsections (2)(a)(i),

347 (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the approximately 17% of sales

348 and use tax revenues generated annually by the sales and use tax on vehicles and

349 vehicle-related products.

350 (b) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under

351 Subsection (7)(b), when the highway general obligation bonds have been paid off and the

352 highway projects completed that are intended to be paid from revenues deposited in the

353 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations

354 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the

355 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes

356 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the taxes described

357 in Subsections (2)(a)(i), (2)(b)(i)(A), and (2)(b)(iii)(A), which represents a portion of the

358 approximately 17% of sales and use tax revenues generated annually by the sales and use tax

359 on vehicles and vehicle-related products.

360 Section 2. **Effective date.**

361 This bill takes effect on July 1, 2007.