

**SALES AND USE TAX ALLOCATIONS FOR WATER
RESOURCES CONSTRUCTION FUND**

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Patrick Painter

Senate Sponsor: _____

LONG TITLE

General Description:

This bill allocates certain sales and use taxes to the Water Resources Construction Fund.

Highlighted Provisions:

This bill:

- ▶ allocates certain sales and use tax revenues to the Water Resources Construction Fund;
- ▶ modifies the funding sources for the Water Resources Construction Fund to include the sales and use tax allocations; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2012.

Utah Code Sections Affected:

AMENDS:

59-12-103, as last amended by Laws of Utah 2011, Chapters 285, 303, 342, and 441

73-10-8, as last amended by Laws of Utah 2011, Chapter 342



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

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

30 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
31 **tax revenues.**

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

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

35 (b) amounts paid for:

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

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

41 (iii) an ancillary service associated with a:

42 (A) telecommunications service described in Subsection (1)(b)(i); or

43 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

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

45 (i) gas;

46 (ii) electricity;

47 (iii) heat;

48 (iv) coal;

49 (v) fuel oil; or

50 (vi) other fuels;

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

52 (i) gas;

53 (ii) electricity;

54 (iii) heat;

55 (iv) coal;

56 (v) fuel oil; or

57 (vi) other fuels;

58 (e) sales of prepared food;

59 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
60 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
61 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
62 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
63 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
64 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
65 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
66 horseback rides, sports activities, or any other amusement, entertainment, recreation,
67 exhibition, cultural, or athletic activity;

68 (g) amounts paid or charged for services for repairs or renovations of tangible personal
69 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

70 (i) the tangible personal property; and

71 (ii) parts used in the repairs or renovations of the tangible personal property described
72 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
73 of that tangible personal property;

74 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
75 assisted cleaning or washing of tangible personal property;

76 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
77 accommodations and services that are regularly rented for less than 30 consecutive days;

78 (j) amounts paid or charged for laundry or dry cleaning services;

79 (k) amounts paid or charged for leases or rentals of tangible personal property if within
80 this state the tangible personal property is:

81 (i) stored;

82 (ii) used; or

83 (iii) otherwise consumed;

84 (l) amounts paid or charged for tangible personal property if within this state the
85 tangible personal property is:

86 (i) stored;

87 (ii) used; or

88 (iii) consumed; and

89 (m) amounts paid or charged for a sale:

90 (i) (A) of a product transferred electronically; or
91 (B) of a repair or renovation of a product transferred electronically; and
92 (ii) regardless of whether the sale provides:
93 (A) a right of permanent use of the product; or
94 (B) a right to use the product that is less than a permanent use, including a right:
95 (I) for a definite or specified length of time; and
96 (II) that terminates upon the occurrence of a condition.
97 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
98 is imposed on a transaction described in Subsection (1) equal to the sum of:
99 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
100 (A) 4.70%; and
101 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
102 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
103 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
104 State Sales and Use Tax Act; and
105 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
106 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
107 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
108 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
109 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
110 transaction under this chapter other than this part.
111 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
112 on a transaction described in Subsection (1)(d) equal to the sum of:
113 (i) a state tax imposed on the transaction at a tax rate of 2%; and
114 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
115 transaction under this chapter other than this part.
116 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
117 on amounts paid or charged for food and food ingredients equal to the sum of:
118 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
119 a tax rate of 1.75%; and
120 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

121 amounts paid or charged for food and food ingredients under this chapter other than this part.

122 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
123 tangible personal property other than food and food ingredients, a state tax and a local tax is
124 imposed on the entire bundled transaction equal to the sum of:

125 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

126 (I) the tax rate described in Subsection (2)(a)(i)(A); and

127 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
128 Sales and Use Tax Act, if the location of the transaction as determined under Sections
129 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
130 Additional State Sales and Use Tax Act; and

131 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
132 Sales and Use Tax Act, if the location of the transaction as determined under Sections
133 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
134 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

135 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
136 described in Subsection (2)(a)(ii).

137 (ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled
138 transaction described in Subsection (2)(d)(i):

139 (A) if the sales price of the bundled transaction is attributable to tangible personal
140 property, a product, or a service that is subject to taxation under this chapter and tangible
141 personal property, a product, or service that is not subject to taxation under this chapter, the
142 entire bundled transaction is subject to taxation under this chapter unless:

143 (I) the seller is able to identify by reasonable and verifiable standards the tangible
144 personal property, product, or service that is not subject to taxation under this chapter from the
145 books and records the seller keeps in the seller's regular course of business; or

146 (II) state or federal law provides otherwise; or

147 (B) if the sales price of a bundled transaction is attributable to two or more items of
148 tangible personal property, products, or services that are subject to taxation under this chapter
149 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
150 higher tax rate unless:

151 (I) the seller is able to identify by reasonable and verifiable standards the tangible

152 personal property, product, or service that is subject to taxation under this chapter at the lower
153 tax rate from the books and records the seller keeps in the seller's regular course of business; or

154 (II) state or federal law provides otherwise.

155 (iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the
156 seller's regular course of business includes books and records the seller keeps in the regular
157 course of business for nontax purposes.

158 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax
159 rate imposed under the following shall take effect on the first day of a calendar quarter:

160 (i) Subsection (2)(a)(i)(A);

161 (ii) Subsection (2)(b)(i);

162 (iii) Subsection (2)(c)(i); or

163 (iv) Subsection (2)(d)(i)(A)(I).

164 (f) (i) A tax rate increase shall take effect on the first day of the first billing period that
165 begins after the effective date of the tax rate increase if the billing period for the transaction
166 begins before the effective date of a tax rate increase imposed under:

167 (A) Subsection (2)(a)(i)(A);

168 (B) Subsection (2)(b)(i);

169 (C) Subsection (2)(c)(i); or

170 (D) Subsection (2)(d)(i)(A)(I).

171 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
172 billing period that began before the effective date of the repeal of the tax or the tax rate
173 decrease if the billing period for the transaction begins before the effective date of the repeal of
174 the tax or the tax rate decrease imposed under:

175 (A) Subsection (2)(a)(i)(A);

176 (B) Subsection (2)(b)(i);

177 (C) Subsection (2)(c)(i); or

178 (D) Subsection (2)(d)(i)(A)(I).

179 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale
180 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
181 or change in a tax rate takes effect:

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

- 183 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 184 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:
- 185 (A) Subsection (2)(a)(i)(A);
- 186 (B) Subsection (2)(b)(i);
- 187 (C) Subsection (2)(c)(i); or
- 188 (D) Subsection (2)(d)(i)(A)(I).

189 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
190 the commission may by rule define the term "catalogue sale."

191 (3) (a) The following state taxes shall be deposited into the General Fund:

- 192 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 193 (ii) the tax imposed by Subsection (2)(b)(i);
- 194 (iii) the tax imposed by Subsection (2)(c)(i); or
- 195 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

196 (b) The following local taxes shall be distributed to a county, city, or town as provided
197 in this chapter:

- 198 (i) the tax imposed by Subsection (2)(a)(ii);
- 199 (ii) the tax imposed by Subsection (2)(b)(ii);
- 200 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 201 (iv) the tax imposed by Subsection (2)(d)(i)(B).

202 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
203 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
204 through (g):

- 205 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 206 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 207 (B) for the fiscal year; or
- 208 (ii) \$17,500,000.

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

- 212 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
213 protect sensitive plant and animal species; or

214 (B) award grants, up to the amount authorized by the Legislature in an appropriations
215 act, to political subdivisions of the state to implement the measures described in Subsections
216 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

265 (iii) develop surface water sources.

266 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
267 2006, the difference between the following amounts shall be expended as provided in this
268 Subsection (5), if that difference is greater than \$1:

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

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

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

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

275 (B) expended by the Department of Natural Resources for watershed rehabilitation or

276 restoration.

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

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

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

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

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

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

293 (i) preconstruction costs:

294 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
295 26, Bear River Development Act; and

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

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

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

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

304 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
305 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
306 transferred each year as dedicated credits to the Division of Water Rights to cover the costs

307 incurred for employing additional technical staff for the administration of water rights.

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

311 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
312 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
313 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
314 the Transportation Fund created by Section 72-2-102.

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

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

327 (8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in
328 Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into
329 the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the
330 taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the
331 following taxes, which represents a portion of the approximately 17% of sales and use tax
332 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- 333 (i) the tax imposed by Subsection (2)(a)(i)(A);
334 (ii) the tax imposed by Subsection (2)(b)(i);
335 (iii) the tax imposed by Subsection (2)(c)(i); and
336 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

337 (b) Notwithstanding Subsection (3)(a), in addition to the amount deposited in

338 Subsection (7)(a), and until Subsection (8)(c) applies, for the 2011-12 fiscal year only, the
339 Division of Finance shall deposit into the Centennial Highway Fund Restricted Account
340 created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to 8.3%
341 of the revenues collected from the following taxes, which represents a portion of the
342 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
343 on vehicles and vehicle-related products:

- 344 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 345 (ii) the tax imposed by Subsection (2)(b)(i);
- 346 (iii) the tax imposed by Subsection (2)(c)(i); and
- 347 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

348 (c) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
349 Subsection (7)(b), and until Subsection (8)(d) or (e) applies, when the highway general
350 obligation bonds have been paid off and the highway projects completed that are intended to be
351 paid from revenues deposited in the Centennial Highway Fund Restricted Account as
352 determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the
353 Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by
354 Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the
355 revenues collected from the following taxes, which represents a portion of the approximately
356 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and
357 vehicle-related products:

- 358 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 359 (ii) the tax imposed by Subsection (2)(b)(i);
- 360 (iii) the tax imposed by Subsection (2)(c)(i); and
- 361 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

362 (d) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
363 Subsection (7)(a), until Subsection (8)(e) applies, and subject to Subsection (8)(f), for a fiscal
364 year beginning on or after July 1, 2012, the Division of Finance shall deposit into the
365 Centennial Highway Fund Restricted Account created by Section 72-2-118:

- 366 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
367 the revenues collected from the following taxes, which represents a portion of the
368 approximately 17% of sales and use tax revenues generated annually by the sales and use tax

369 on vehicles and vehicle-related products:

370 (A) the tax imposed by Subsection (2)(a)(i)(A);

371 (B) the tax imposed by Subsection (2)(b)(i);

372 (C) the tax imposed by Subsection (2)(c)(i); and

373 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

374 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the

375 current fiscal year from the sales and use taxes described in Subsections (8)(d)(i)(A) through

376 (D) that exceeds the amount collected from the sales and use taxes described in Subsections

377 (8)(d)(i)(A) through (D) in the 2010-11 fiscal year.

378 (e) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under

379 Subsection (7)(b), and subject to Subsection (8)(f), when the highway general obligation bonds

380 have been paid off and the highway projects completed that are intended to be paid from

381 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the

382 Executive Appropriations Committee under Subsection 72-2-118(6)(d), for a fiscal year

383 beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation

384 Investment Fund of 2005 created by Section 72-2-124:

385 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of

386 the revenues collected from the following taxes, which represents a portion of the

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

388 on vehicles and vehicle-related products:

389 (A) the tax imposed by Subsection (2)(a)(i)(A);

390 (B) the tax imposed by Subsection (2)(b)(i);

391 (C) the tax imposed by Subsection (2)(c)(i); and

392 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

393 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the

394 current fiscal year from the sales and use taxes described in Subsections (8)(e)(i)(A) through

395 (D) that exceeds the amount collected from the sales and use taxes described in Subsections

396 (8)(e)(i)(A) through (D) in the 2010-11 fiscal year.

397 (f) (i) Subject to Subsections (8)(f)(ii) and (iii), in any fiscal year that the portion of the

398 sales and use taxes deposited under Subsection (8)(d) or (e) represents an amount that is a total

399 lower percentage of the sales and use taxes described in Subsections (8)(e)(i)(A) through (D)

400 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
401 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
402 (8)(d) or (e) equal to the product of:

403 (A) the total percentage of sales and use taxes deposited under Subsection (8)(d) or (e)
404 in the previous fiscal year; and

405 (B) the total sales and use tax revenue generated by the taxes described in Subsections
406 (8)(e)(i)(A) through (D) in the current fiscal year.

407 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
408 Subsection (8)(d) or (e) would exceed 17% of the revenues collected from the sales and use
409 taxes described in Subsections (8)(e)(i)(A) through (D) in the current fiscal year, the Division
410 of Finance shall deposit 17% of the revenues collected from the sales and use taxes described
411 in Subsections (8)(e)(i)(A) through (D) for the current fiscal year under Subsection (8)(d) or
412 (e).

413 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
414 from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) was deposited
415 under Subsection (8)(d) or (e), the Division of Finance shall annually deposit 17% of the
416 revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through
417 (D) in the current fiscal year under Subsection (8)(d) or (e).

418 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the
419 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed
420 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

421 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal
422 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit
423 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
424 Critical Highway Needs Fund created by Section 72-2-125.

425 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
426 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101
427 have been paid off and the highway projects completed that are included in the prioritized
428 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
429 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
430 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund

431 of 2005 created by Section 72-2-124.

432 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
433 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
434 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

435 (11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection
436 (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of
437 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the
438 amount of tax revenue generated by a .025% tax rate on the transactions described in
439 Subsection (1).

440 (ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into
441 the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for
442 food and food ingredients, except for tax revenue generated by a bundled transaction
443 attributable to food and food ingredients and tangible personal property other than food and
444 food ingredients described in Subsection (2)~~(c)~~(d).

445 (b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii),
446 and in addition to any amounts deposited under Subsections (7), (9), and (10), when the general
447 obligation bonds authorized by Section 63B-16-101 have been paid off and the highway
448 projects completed that are included in the prioritized project list under Subsection 72-2-125(4)
449 as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall
450 deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
451 amount of tax revenue generated by a .025% tax rate on the transactions described in
452 Subsection (1).

453 (ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into
454 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or
455 charged for food and food ingredients, except for tax revenue generated by a bundled
456 transaction attributable to food and food ingredients and tangible personal property other than
457 food and food ingredients described in Subsection (2)~~(c)~~(d).

458 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
459 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
460 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
461 .025% tax rate on the transactions described in Subsection (1) to be expended to address

462 chokepoints in construction management.

463 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
464 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
465 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
466 and food ingredients and tangible personal property other than food and food ingredients
467 described in Subsection (2)~~(c)~~(d).

468 (13) Notwithstanding Subsection (3)(a), beginning on July 1, 2015, the Division of
469 Finance shall annually deposit a portion of the taxes listed under Subsection (3)(a) into the
470 Water Resources Construction Fund created in Section 73-10-8 in an amount equal to 15% of
471 the growth in the amount of revenues collected in the current fiscal year from the sales and use
472 taxes described in Subsection (3)(a) that exceeds the revenues collected from the sales and use
473 taxes described in Subsection (3)(a) in fiscal year 2010-11.

474 Section 2. Section **73-10-8** is amended to read:

475 **73-10-8. Water Resources Construction Fund -- Creation and contents of fund --**
476 **Use -- Investigation Account created -- Interest -- Retainage -- Loans and grants for dam**
477 **safety work.**

478 (1) There is created the Water Resources Construction Fund, which consists of:

479 (a) money appropriated or otherwise made available to it by the Legislature;

480 (b) money deposited in accordance with Section 59-12-103;

481 ~~(b)~~ (c) money from the sale or management of the 500,000 acres of land selected for
482 the establishment of reservoirs under Section 12 of the Utah Enabling Act;

483 ~~(c)~~ (d) charges assessed against water and power users pursuant to Section 73-10-6;

484 and

485 ~~(d)~~ (e) interest accrued pursuant to Subsection (5).

486 (2) The board may authorize the use of money in the fund for the following purposes:

487 (a) to develop water conservation projects, including paying the costs of construction,
488 engineering, investigation, inspection, and other related expenses;

489 (b) to provide loans and grants to dam owners to conduct dam safety studies;

490 (c) to provide loans and grants to dam owners:

491 (i) to upgrade dams in conformance with the minimum standards established by the
492 state engineer in rules; or

493 (ii) for nonstructural solutions developed to meet minimum standards or lower hazard
494 ratings that are approved by the state engineer, including the purchase of habitable structures,
495 purchase of flood easements, and installation of early warning systems; or

496 (d) as otherwise provided by law.

497 (3) The board may provide for the repayment of the costs of investigation, engineering,
498 and inspection out of the first money to be paid under a contract for the construction of a water
499 project. The money repaid shall be deposited into a subaccount within the Water Resources
500 Construction Fund known as the Investigation Account, to be used by the board for the purpose
501 of making investigations for the development and use of the water resources of the state.

502 (4) Contributions of money, property, or equipment may be received from any political
503 subdivision of the state, federal agency, water users' association, person, or corporation for use
504 in making investigations, constructing projects, or otherwise carrying out the purposes of this
505 section.

506 (5) All money deposited into the Water Resources Construction Fund shall be invested
507 by the state treasurer with interest accruing to the Water Resources Construction Fund.

508 (6) If any payment on a contract with a private contractor to construct a project funded
509 by the Water Resources Construction Fund is retained or withheld, it shall be retained or
510 withheld and released as provided in Section 13-8-5.

511 (7) Loans to dam owners for dam safety studies and to upgrade dams in conformance
512 with minimum standards shall be secured by taking water rights associated with the dam.

513 (8) The following restrictions apply to any grant made to a dam owner for a dam safety
514 study:

515 (a) only a nonprofit mutual irrigation company or a water users association is eligible
516 to receive a grant;

517 (b) the dam safety study shall be required by the state engineer pursuant to Section
518 73-5a-503; and

519 (c) the amount of any grant shall be limited to up to 50% of the costs of the dam safety
520 study.

521 (9) (a) The board may provide grants to mutual irrigation companies and water users
522 associations to upgrade dams in conformance with minimum standards of the state engineer.
523 Each grant authorized by the board for the upgrade of a dam of a mutual irrigation company or

524 water users association in conformance with the minimum standards shall be sufficient to pay
525 for 80% of the costs to upgrade the dam.

526 (b) (i) Pursuant to guidelines specified in Subsection (9)(b)(ii), the board may provide
527 loans or grants, or both, to entities other than mutual irrigation companies and water users
528 associations to upgrade dams in conformance with minimum standards of the state engineer.

529 (ii) In determining the type of financial assistance to be provided to an entity other than
530 a mutual irrigation company or water users association, the board shall consider the dam
531 owner's ability to pay and may consider other factors including:

532 (A) the degree of hazard;

533 (B) the threat to public safety;

534 (C) the state engineer's priority list of dams;

535 (D) the cost effectiveness of the restoration;

536 (E) the number of potential and actual applications for financial assistance; and

537 (F) the funds available.

538 (10) The amount of money in the fund that may be used for grants for dam safety
539 studies shall be limited to the amount of money appropriated to the fund for that purpose.

540 (11) The board shall consult with the state engineer in establishing a priority list of
541 dams to be upgraded with money in the fund.

542 (12) A dam owner who has initiated or completed construction approved by the state
543 engineer to upgrade the dam in conformance with minimum standards may apply for a grant or
544 loan from the board as reimbursement for those construction expenditures.

545 **Section 3. Effective date.**

546 This bill takes effect on July 1, 2012.

Legislative Review Note
as of 1-27-12 8:16 AM

Office of Legislative Research and General Counsel