

FUNDING FOR TRANSPORTATION**FOR COUNTIES**

2006 FOURTH SPECIAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill modifies the Transportation Finances Act, the Sales and Use Tax Act, and County Powers to address transportation funding for counties.

Highlighted Provisions:

This bill:

- ▶ prohibits a county legislative body from using property taxes to fund fixed guideways;
- ▶ repeals a requirement that certain revenues generated by the local option additional public transit tax be expended by a county of the first class for a fixed guideway and expanded public transportation system and interstate improvements;
- ▶ provides definitions;
- ▶ authorizes a county legislative body to impose a local option sales and use tax beginning on or after April 1, 2007 for certain transportation uses;
- ▶ provides procedures and requirements for imposing the tax;
- ▶ establishes the duties of the State Tax Commission to administer, collect, and enforce the tax;
- ▶ provides the purposes for which revenues collected for the tax may be expended;
- and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an immediate effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

32 AMENDS:

33 **59-12-502**, as last amended by Chapters 253 and 329, Laws of Utah 2006

34 **72-2-121**, as last amended by Chapter 329, Laws of Utah 2006

35 ENACTS:

36 **17-50-322**, Utah Code Annotated 1953

37 **59-12-1701**, Utah Code Annotated 1953

38 **59-12-1702**, Utah Code Annotated 1953

39 **59-12-1703**, Utah Code Annotated 1953

40 **72-2-125**, Utah Code Annotated 1953

41

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

43 Section 1. Section **17-50-322** is enacted to read:

44 **17-50-322. County funding for a fixed guideway system.**

45 A county Legislative body may not expend revenues from property taxes, uniform
 46 fees, or any tax or fee imposed in lieu of a property tax, to purchase, erect, repair, rebuild,
 47 maintain or otherwise fund a fixed guideway transportation system.

48 Section 2. Section **59-12-502** is amended to read:

49 **59-12-502. Additional public transit tax for expanded system and fixed guideway**
 50 **-- Base -- Rate -- Voter approval.**

51 (1) (a) (i) In addition to other sales and use taxes, including the public transit district tax
 52 authorized by Section 59-12-501, a county, city, or town within a transit district organized
 53 under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act, may impose a sales and
 54 use tax of .25% on the transactions described in Subsection 59-12-103(1) located within the
 55 county, city, or town, to fund a fixed guideway and expanded public transportation system.

56 (ii) Notwithstanding Subsection (1)(a)(i), a county, city, or town may not impose a tax
 57 under this section on:

58 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
 59 are exempt from taxation under Section 59-12-104; and

60 (B) any amounts paid or charged by a seller that collects a tax under Subsection
 61 59-12-107(1)(b).

62 (b) For purposes of this Subsection (1), the location of a transaction shall be

63 determined in accordance with Section 59-12-207.

64 (c) (i) A county, city, or town may impose the tax under this section only if the
65 governing body of the county, city, or town submits, by resolution, the proposal to all the
66 qualified voters within the county, city, or town for approval at a general or special election
67 conducted in the manner provided by statute.

68 (ii) Notice of the election under Subsection (1)(c)(i) shall be given by the county, city,
69 or town governing body 15 days in advance in the manner prescribed by statute.

70 (2) If the majority of the voters voting in this election approve the proposal, it shall
71 become effective on the date provided by the county, city, or town governing body.

72 (3) (a) This section may not be construed to require an election in jurisdictions where
73 voters have previously approved a public transit sales or use tax.

74 (b) This section shall be construed to require an election to impose the sales and use
75 tax authorized by this section, including jurisdictions where the voters have previously
76 approved the sales and use tax authorized by Section 59-12-501, but this section may not be
77 construed to affect the sales and use tax authorized by Section 59-12-501.

78 (4) No public funds shall be spent to promote the required election.

79 (5) (a) Notwithstanding the designated use of revenues in Subsection (1), of the
80 revenues generated by the tax imposed under this section by any county of the first class:

81 (i) 75% shall be allocated to fund a fixed guideway and expanded public transportation
82 system; and

83 (ii) except as provided in Subsection (5)(b), 25% shall be allocated to fund new
84 construction, major renovations, and improvements to Interstate 15 and state highways within
85 the county and to pay any debt service and bond issuance costs related to those projects.

86 (b) Notwithstanding the designated use of revenues in Subsection (1), beginning on
87 July 1, 2006, and ending on July 1, 2007, a county of the first class may expend an amount not
88 to exceed \$3,500,000 of the revenues described in Subsection (5)(a)(ii) for expenses relating to
89 reconfiguring railroad curves within that county to reduce rail congestion.

90 (6) A county of the first class may, through an interlocal agreement, authorize the
91 deposit or transfer of the portion of the revenues described in Subsection (5)(a)(ii) to the Public
92 Transportation System Tax Highway Fund created in Section 72-2-121.

93 (7) Subsections (5) and (6) do not apply beginning on the date a county of the first

94 class imposes a tax under Section 59-2-1703.

95 (8) (a) If a county of the first class imposes a tax under Section 59-2-1703 that begins
 96 on April 1, 2007, of the revenues described in Section 59-12-1703(2)(b)(i), a county of the first
 97 class may expend an amount equal to the amount described in Subsection (8)(b) beginning on
 98 April 1, 2007, and ending on July 1, 2007.

99 (b) The county of the first class may expend an amount equal to the difference
 100 between:

101 (i) \$3,500,000; and

102 (ii) the amount the county expended pursuant to Subsection (5)(b) during the period
 103 beginning on July 1, 2006, and ending on April 1, 2007.

104 Section 3. Section **59-12-1701** is enacted to read:

105 **Part 17. County Option Sales and Use Tax for Transportation Act**

106 **59-12-1701. Title.**

107 This part is known as the "County Option Sales and Use Tax for Transportation Act."

108 Section 4. Section **59-12-1702** is enacted to read:

109 **59-12-1702. Definitions.**

110 As used in this part:

111 (1) "Annexation" means an annexation to a county under Title 17, Chapter 2,

112 Annexation to County.

113 (2) "Annexing area" means an area that is annexed into a county.

114 Section 5. Section **59-12-1703** is enacted to read:

115 **59-12-1703. Opinion question election -- Base -- Rate -- Imposition of tax -- Use of**

116 **tax revenues -- Administration, collection, and enforcement of tax by commission --**

117 **Administrative fee -- Enactment or repeal of tax -- Annexation -- Notice.**

118 (1) (a) Beginning on or after April 1, 2007, and subject to the other provisions of this
 119 part, the county legislative body of a county of the first class may impose a sales and use tax of
 120 .25%:

121 (i) on the transactions:

122 (A) described in Subsection 59-12-103(1); and

123 (B) within the county, including the cities and towns within the county;

124 (ii) for the purposes described in Subsection (2); and

- 125 (iii) in addition to any other sales and use tax authorized under this chapter.
- 126 (b) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a
127 tax under this section on:
- 128 (i) the sales and uses described in Section 59-12-104 to the extent the sales and uses
129 are exempt from taxation under Section 59-12-104; or
- 130 (ii) any amounts paid or charged by a seller that collects a tax under Subsection
131 59-12-107(1)(b).
- 132 (c) For purposes of this Subsection (1), the location of a transaction shall be
133 determined in accordance with Section 59-12-207.
- 134 (2) Of the revenues a county will receive from the tax imposed under this part:
- 135 (a) 48% shall be expended to fund a project or service relating to a fixed guideway and
136 expanded public transportation system:
- 137 (i) for the portion of the project or service that is performed within the county; and
138 (ii) if the fixed guideway and expanded public transportation system is owned and
139 operated by a public transit district organized under Title 17A, Chapter 2, Part 10, Utah Public
140 Transit District Act; and
- 141 (b) 52% shall be expended as follows:
- 142 (i) 48% shall be deposited or transferred, through an interlocal agreement established
143 in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, to the Public
144 Transportation System Tax Highway Fund created by Section 72-2-121; and
- 145 (ii) 52% shall be deposited or transferred, through an interlocal agreement established
146 in accordance with Title 11, Chapter 13, Interlocal Cooperation Act, to the State Highway
147 Corridor Preservation Fund created by Section 72-2-125.
- 148 (3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (3)(d), before
149 imposing a tax under this part, a county legislative body shall:
- 150 (i) obtain approval from a majority of the members of the county legislative body to
151 impose the tax; and
- 152 (ii) submit an opinion question to the county's registered voters voting on the
153 imposition of the tax so that each registered voter has the opportunity to express the registered
154 voter's opinion on whether a tax should be imposed under this part.
- 155 (b) The opinion question required by Subsection (3)(a)(ii) shall state the following:

156 "Shall (insert the name of the county of the first class), Utah, be authorized to impose a
157 .25% sales and use tax for the purpose of financing projects or services relating to light rail,
158 commuter rail, transportation corridor preservation, state roads, and local roads of regional
159 significance?"

160 (c) Except as provided in Subsection (3)(d), the election required by this Subsection (3)
161 shall be held:

162 (i) at a regular general election conducted in accordance with the procedures and
163 requirements of Title 20A, Election Code, governing regular elections; or

164 (ii) at a special election called by the county legislative body that is:

165 (A) held only on the date of a municipal general election as provided in Subsection
166 20A-1-202(1); and

167 (B) authorized in accordance with the procedures and requirements of Section
168 20A-1-203.

169 (d) Notwithstanding Subsections (3)(a) and (c), if a county seeks to impose a tax under
170 this part on or after April 1, 2007, but on or before December 31, 2007, the county legislative
171 body shall:

172 (i) obtain the approval required by Subsection (3)(a)(i) within 5 calendar days of the
173 effective date of this bill;

174 (ii) direct the county clerk to submit the opinion question required by Subsection
175 (3)(a)(ii) during the November 7, 2006 general election; and

176 (iii) hold the election required by this Subsection (3)(d) on November 7, 2006.

177 (4) If a county legislative body determines that a majority of the county's registered
178 voters voting on the imposition of the tax have voted in favor of the imposition of the tax in
179 accordance with Subsection (3), the county legislative body shall impose the tax in accordance
180 with Subsection (7).

181 (5) (a) (i) Except as provided in Subsection (5)(a)(ii), revenues described in Subsection
182 (2)(a) shall be transmitted:

183 (A) by the commission;

184 (B) to the county;

185 (C) monthly; and

186 (D) by electronic funds transfer.

187 (ii) A county may request that the commission transfer the revenues described in
188 Subsection (5)(a)(i):
189 (A) directly to a public transit district:
190 (I) organized under Title 17A, Chapter 2, Part 10, Utah Public Transit District Act; and
191 (II) designated by the county; and
192 (B) by providing written notice to the commission:
193 (I) requesting the revenues to be transferred directly to a public transit district as
194 provided in Subsection (5)(a)(ii)(A); and
195 (II) designating the public transit district to which the revenues are requested to be
196 transferred.
197 (b) Revenues described in Subsection (2)(b)(i) shall be:
198 (i) deposited or transferred into the Public Transportation System Tax Highway Fund
199 created by Section 72-2-121; and
200 (ii) expended as provided in Section 72-2-121.
201 (c) Revenues described in Subsection (2)(b)(ii) shall be:
202 (i) deposited or transferred into the State Highway Corridor Preservation Fund created
203 by Section 72-2-125; and
204 (ii) expended as provided in Section 72-2-125.
205 (6) (a) Except as provided in Subsection (6)(b), the tax authorized under this part shall
206 be administered, collected, and enforced in accordance with:
207 (i) the same procedures used to administer, collect, and enforce the tax under:
208 (A) Part 1, Tax Collection; or
209 (B) Part 2, Local Sales and Use Tax Act; and
210 (ii) Chapter 1, General Taxation Policies.
211 (b) A tax under this part is not subject to Subsections 59-12-205(2) through (7).
212 (7) (a) (i) Except as provided in Subsection (7)(b) or (c), if, on or after April 1, 2007, a
213 county enacts or repeals a tax under this part, the enactment or repeal shall take effect:
214 (A) on the first day of a calendar quarter; and
215 (B) after a 90-day period beginning on the date the commission receives notice meeting
216 the requirements of Subsection (7)(a)(ii) from the county.
217 (ii) The notice described in Subsection (7)(a)(i)(B) shall state:

- 218 (A) that the county will enact a tax under this part;
219 (B) the statutory authority for the tax described in Subsection (7)(a)(ii)(A);
220 (C) the effective date of the tax described in Subsection (7)(a)(ii)(A); and
221 (D) if the county enacts the tax described in Subsection (7)(a)(ii)(A), the rate of the tax.
- 222 (b) (i) For a transaction described in Subsection (7)(b)(iii), if the billing period for the
223 transaction begins before the effective date of the enactment of the tax under Subsection (1),
224 the enactment of a tax shall take effect on the first day of the first billing period that begins
225 after the effective date of the enactment of the tax.
- 226 (ii) For a transaction described in Subsection (7)(b)(iii), if the billing period for the
227 transaction begins before the effective date of the repeal of the tax imposed under Subsection
228 (1), the repeal of a tax shall take effect on the first day of the last billing period that began
229 before the effective date of the repeal of the tax.
- 230 (iii) Subsections (7)(b)(i) and (ii) apply to transactions subject to a tax under:
- 231 (A) Subsection 59-12-103(1)(b);
232 (B) Subsection 59-12-103(1)(c);
233 (C) Subsection 59-12-103(1)(d);
234 (D) Subsection 59-12-103(1)(e);
235 (E) Subsection 59-12-103(1)(f);
236 (F) Subsection 59-12-103(1)(g);
237 (G) Subsection 59-12-103(1)(h);
238 (H) Subsection 59-12-103(1)(i);
239 (I) Subsection 59-12-103(1)(j); or
240 (J) Subsection 59-12-103(1)(k).
- 241 (c) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
242 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
243 Subsection (7)(a)(i) takes effect:
- 244 (A) on the first day of a calendar quarter; and
245 (B) beginning 60 days after the effective date of the enactment or repeal under
246 Subsection (7)(a)(i).
- 247 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
248 the commission may by rule define the term "catalogue sale."

249 (d) (i) Except as provided in Subsection (7)(e) or (f), if, for an annexation that occurs
250 on or after April 1, 2007, the annexation will result in the enactment or repeal of a tax under
251 this part for an annexing area, the enactment or repeal shall take effect:

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

253 (B) after a 90-day period beginning on the date the commission receives notice meeting
254 the requirements of Subsection (7)(d)(ii) from the county that annexes the annexing area.

255 (ii) The notice described in Subsection (7)(d)(i)(B) shall state:

256 (A) that the annexation described in Subsection (7)(d)(i)(B) will result in an enactment
257 or repeal of a tax under this part for the annexing area;

258 (B) the statutory authority for the tax described in Subsection (7)(d)(ii)(A);

259 (C) the effective date of the tax described in Subsection (7)(d)(ii)(A); and

260 (D) the rate of the tax described in Subsection (7)(d)(ii)(A).

261 (e) (i) For a transaction described in Subsection (7)(e)(iii), if the billing period for the
262 transaction begins before the effective date of the enactment of the tax under Subsection (1),
263 the enactment of a tax shall take effect on the first day of the first billing period that begins
264 after the effective date of the enactment of the tax.

265 (ii) For a transaction described in Subsection (7)(e)(iii), if the billing period for the
266 transaction begins before the effective date of the repeal of the tax imposed under Subsection
267 (1), the repeal of a tax shall take effect on the first day of the last billing period that began
268 before the effective date of the repeal of the tax.

269 (iii) Subsections (7)(e)(i) and (ii) apply to transactions subject to a tax under:

270 (A) Subsection 59-12-103(1)(b);

271 (B) Subsection 59-12-103(1)(c);

272 (C) Subsection 59-12-103(1)(d);

273 (D) Subsection 59-12-103(1)(e);

274 (E) Subsection 59-12-103(1)(f);

275 (F) Subsection 59-12-103(1)(g);

276 (G) Subsection 59-12-103(1)(h);

277 (H) Subsection 59-12-103(1)(i);

278 (I) Subsection 59-12-103(1)(j); or

279 (J) Subsection 59-12-103(1)(k).

280 (f) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of
281 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in
282 Subsection (7)(d)(i) takes effect:

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

284 (B) beginning 60 days after the effective date of the enactment or repeal under
285 Subsection (7)(d)(i).

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

288 Section 6. Section **72-2-121** is amended to read:

289 **72-2-121. Public Transportation System Tax Highway Fund.**

290 (1) There is created a special revenue fund [entitled] known as the Public
291 Transportation System Tax Highway Fund.

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

293 (a) any voluntary contributions received for new construction, major renovations, and
294 improvements to Interstate 15 and state highways within a county of the first class; and

295 (b) the portion of the sales and use tax:

296 (i) for a county of the first class that does not impose a tax under Part 17, County
297 Option Sales and Use Tax for Transportation, described in Subsection 59-12-502(5)(a)(ii)

298 deposited in or transferred to the fund through an interlocal agreement[-]; or

299 (ii) for a county of the first class that imposes a tax under Part 17, County Option Sales
300 and Use Tax for Transportation, described in Subsection 59-12-1703(2)(b)(i) deposited in or
301 transferred to the fund through an interlocal agreement.

302 (3) (a) The fund shall earn interest.

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

304 (4) The executive director may use fund monies, as prioritized by the Transportation
305 Commission, only for new construction, major renovations, and improvements to Interstate 15
306 and state highways within a county of the first class and to pay any debt service and bond
307 issuance costs related to those projects.

308 Section 7. Section **72-2-125** is enacted to read:

309 **72-2-125. State Highway Corridor Preservation Fund.**

310 (1) There is created a special revenue fund known as the State Highway Corridor

311 Preservation Fund.312 (2) The fund consists of monies generated from the following revenue sources:313 (a) any voluntary contributions received for transportation corridor preservation within
314 a county of the first class; and315 (b) the portion of the sales and use tax described in Subsection 59-12-1703(2)(b)(ii)
316 deposited in or transferred to the fund through an interlocal agreement.317 (3) (a) The fund shall earn interest.318 (b) All interest earned on fund monies shall be deposited into the fund.319 (4) The executive director may use fund monies, as prioritized by the Transportation
320 Commission, only for state highway corridor preservation within a county of the first class and
321 to pay any debt service and bond issuance costs related to those projects.322 **Section 8. Effective date.**323 If approved by two-thirds of all the members elected to each house, this bill takes effect
324 upon approval by the governor, or the day following the constitutional time limit of Utah
325 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
326 the date of veto override.327 **Section 9. Revisor instructions.**328 It is the intent of the Legislature that, in preparing the Utah Code database for
329 publication, the Office of Legislative Research and General Counsel shall replace the reference
330 in Subsection 59-12-1703(3)(d)(i) to "the effective date of this bill" with the actual effective
331 date of this bill.