

1 **TAX AMENDMENTS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel McCay**

5 House Sponsor: _____

6

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies provisions relating to the Homeless Shelter Cities Mitigation
10 Restricted Account.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ modifies the calculation of a county's or municipality's annual contribution to the
14 Homeless Shelter Cities Mitigation Restricted Account by:

- 15 • removing the cap on a county's or municipality's contribution amount;
16 • changing the percentage used to determine the amount of the contribution; and
17 • requiring the State Tax Commission to subtract the contribution from the
18 county's or municipality's distribution of local option sales and use tax revenue
19 that is based on the location of the transaction, rather than the distribution that is
20 based on population; and

21 ▶ makes technical changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 This bill provides a special effective date.

26 **Utah Code Sections Affected:**

27 AMENDS:



- 28 **35A-8-606**, as enacted by Laws of Utah 2018, Chapter 312
- 29 **35A-8-608**, as enacted by Laws of Utah 2018, Chapter 312
- 30 **35A-8-609**, as enacted by Laws of Utah 2018, Chapter 312
- 31 **59-12-205**, as last amended by Laws of Utah 2018, Chapters 258, 312, and 330
- 32 **63J-1-801**, as enacted by Laws of Utah 2018, Chapter 312

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

35 Section 1. Section **35A-8-606** is amended to read:

36 **35A-8-606. Homeless Shelter Cities Mitigation Restricted Account.**

37 (1) As used in this section:

38 (a) "Annual local contribution" means:

39 (i) for a participating local government, [~~the lesser of \$200,000 or~~] an amount equal to
 40 [~~1.8%~~] 1.99% of the participating local government's tax revenue distribution amount under
 41 Subsection **59-12-205(2)(a)**~~(a)~~(b) for the previous fiscal year; or

42 (ii) for an eligible municipality or a grant eligible entity that is certified in accordance
 43 with Section **35A-8-609**, \$0.

44 (b) "Eligible municipality" means the same as that term is defined in Section
 45 **35A-8-607**.

46 (c) "Grant eligible entity" means the same as that term is defined in Section **35A-8-608**.

47 (d) "Participating local government" means a county or municipality, as defined in
 48 Section **10-1-104**, that is not an eligible municipality or grant eligible entity as certified by the
 49 department in accordance with Section **35A-8-609**.

50 (2) There is created a restricted account within the General Fund known as the
 51 Homeless Shelter Cities Mitigation Restricted Account.

52 (3) The account shall be funded by:

53 (a) local sales and use tax revenue deposited into the account in accordance with
 54 Section **59-12-205**; and

55 (b) interest earned on the account.

56 (4) (a) The department shall administer the account.

57 (b) Subject to appropriation, the department shall disburse funds from the account to:

58 (i) eligible municipalities in accordance with Sections **35A-8-607** and **63J-1-802**; and

59 (ii) grant eligible entities in accordance with Sections 35A-8-608 and 63J-1-802.

60 Section 2. Section 35A-8-608 is amended to read:

61 **35A-8-608. Grant eligible entity application process for Homeless Shelter Cities**

62 **Mitigation Restricted Account funds.**

63 (1) As used in this section:

64 (a) "Account" means the restricted account created in Section 35A-8-606.

65 (b) "Committee" means the Homeless Coordinating Committee created in this part.

66 (c) "Grant" means an award of funds from the account.

67 (d) "Grant eligible entity" means:

68 (i) the Department of Public Safety; or

69 (ii) a city, town, or metro township that:

70 (A) has a homeless shelter within the city's, town's, or metro township's geographic

71 boundaries;

72 (B) has increased community, social service, ~~and~~ or public safety service needs due to

73 the location of a homeless shelter within the city's, town's, or metro township's geographic

74 boundaries; and

75 (C) is certified as a grant eligible entity in accordance with Section 35A-8-609.

76 (e) "Homeless shelter" means a facility that:

77 (i) provides temporary shelter to homeless individuals;

78 (ii) has the capacity to provide temporary shelter to at least 60 individuals per night;

79 and

80 (iii) operates year-round and is not subject to restrictions that limit the hours, days,

81 weeks, or months of operation.

82 (f) "Public safety services" means law enforcement, emergency medical services, and

83 fire protection.

84 (2) Subject to the availability of funds, a grant eligible entity may request a grant to

85 mitigate the impacts of the location of a homeless shelter:

86 (a) through employment of additional personnel to provide public safety services in

87 and around a homeless shelter; or

88 (b) for a grant eligible entity that is a city, town, or metro township, through:

89 (i) development of a community and neighborhood program within the city's, town's, or

90 metro township's boundaries; or

91 (ii) provision of social services within the city's, town's, or metro township's
92 boundaries.

93 (3) (a) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the
94 department shall make rules governing:

95 (i) the process for determining whether there is sufficient revenue to the account to
96 offer a grant program for the next fiscal year; and

97 (ii) the process for notifying grant eligible entities about the availability of grants for
98 the next fiscal year.

99 (b) (i) If the committee offers a grant program for the next fiscal year, the committee
100 shall set aside time on the agenda of a committee meeting that occurs on or after July 1 and on
101 or before November 30 to allow a grant eligible entity to present a request for account funds for
102 the next fiscal year.

103 (ii) A grant eligible entity may present a request for account funds by:

104 (A) sending an electronic copy of the request to the committee before the meeting; and

105 (B) appearing at the meeting to present the request.

106 (c) The request described in Subsection (3)(b) shall contain:

107 (i) for a grant request to develop a community and neighborhood program:

108 (A) a proposal outlining the components of a community and neighborhood program;

109 (B) a summary of the grant eligible entity's proposed use of any grant awarded; and

110 (C) the amount requested;

111 (ii) for a grant request to provide social services:

112 (A) a proposal outlining the need for additional social services;

113 (B) a summary of the grant eligible entity's proposed use of any grant awarded; and

114 (C) the amount requested;

115 (iii) for a grant request to employ additional personnel to provide public safety
116 services:

117 (A) data relating to the grant eligible entity's public safety services for the current fiscal
118 year, including crime statistics and calls for public safety services;

119 (B) data showing an increase in the grant eligible entity's need for public safety
120 services in the next fiscal year;

121 (C) a summary of the grant eligible entity's proposed use of any grant awarded; and

122 (D) the amount requested; ~~and~~ or

123 (iv) for a grant request to provide some combination of the activities described in

124 Subsections (3)(c)(i) through (iii), the information required by this Subsection (3) for each

125 activity for which the grant eligible entity requests a grant.

126 (d) (i) On or before November 30, a grant eligible entity that received a grant during
127 the previous fiscal year shall file electronically with the committee a report that includes:

128 (A) a summary of the amount of the grant that the grant eligible entity received and the
129 grant eligible entity's specific use of those funds;

130 (B) an evaluation of the grant eligible entity's effectiveness in using the grant to
131 address the grant eligible entity's increased needs due to the location of a homeless shelter; and

132 (C) any proposals for improving the grant eligible entity's effectiveness in using a grant
133 that the grant eligible entity may receive in future fiscal years.

134 (ii) The committee may request additional information as needed to make the
135 evaluation described in Subsection (3)(e).

136 (e) The committee shall evaluate a grant request made in accordance with this
137 Subsection (3) using the following factors:

138 (i) the strength of the proposal that the grant eligible entity provides to support the
139 request;

140 (ii) if the grant eligible entity received a grant during the previous fiscal year, the
141 efficiency with which the grant eligible entity used the grant during the previous fiscal year;

142 (iii) the availability of alternative funding for the grant eligible entity to address the
143 grant eligible entity's needs due to the location of a homeless shelter; and

144 (iv) any other considerations identified by the committee.

145 (f) (i) After making the evaluation described in Subsection (3)(e) for each grant eligible
146 entity that makes a grant request and subject to other provisions of this Subsection (3)(f), the
147 committee shall vote to:

148 (A) prioritize the grant requests; and

149 (B) recommend a grant amount for each grant eligible entity.

150 (ii) The committee shall support the prioritization and recommendation described in
151 Subsection (3)(f)(i) with findings on each of the factors described in Subsection (3)(e).

152 (g) The committee shall submit a list that prioritizes the grant requests and
153 recommends a grant amount for each grant eligible entity that requested a grant to:
154 (i) the governor for inclusion in the governor's budget to be submitted to the
155 Legislature; and
156 (ii) the Social Services Appropriations Subcommittee of the Legislature for approval in
157 accordance with Section 63J-1-802.

158 (4) (a) Subject to Subsection (4)(b), the department shall disburse the revenue in the
159 account as a grant to a grant eligible entity:

160 (i) after making the disbursements required by Section 35A-8-607; and
161 (ii) subject to the availability of funds in the account:
162 (A) in the order of priority that the Legislature gives to each eligible grant entity under
163 Section 63J-1-802; and
164 (B) in the amount that the Legislature approves to a grant eligible entity under Section
165 63J-1-802.

166 (b) In accordance with Title 63G, Chapter 4, Administrative Procedures Act, the
167 department shall make rules governing the process for the department to determine the timeline
168 within the fiscal year for funding the grants.

169 (5) On or before October 1, the department, in cooperation with the committee, shall:

170 (a) submit an annual written report electronically to the Social Services Appropriations
171 Subcommittee of the Legislature that gives a complete accounting of the department's
172 disbursement of the money from the account under this section for the previous fiscal year; and
173 (b) include information regarding the disbursement of money from the account under
174 this section in the annual report described in Section 35A-1-109.

175 Section 3. Section 35A-8-609 is amended to read:

176 **35A-8-609. Certification of eligible municipality or grant eligible entity.**

177 (1) The department shall certify each year, on or after July 1 and before the first
178 meeting of the [~~committee~~] Homeless Coordinating Committee after July 1, the cities or towns
179 that meet the requirements of an eligible municipality or a grant eligible entity as of July 1.

180 (2) On or before October 1, the department shall provide a list of the cities or towns
181 that the department has certified as meeting the requirements of an eligible municipality or a
182 grant eligible entity for the year to the State Tax Commission.

183 Section 4. Section **59-12-205** is amended to read:

184 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
185 **tax revenue -- Determination of population.**

186 (1) To maintain in effect sales and use tax ordinances adopted pursuant to Section
187 **59-12-204**, a county, city, or town shall adopt amendments to the county's, city's, or town's
188 sales and use tax ordinances:

189 (a) within 30 days of the day on which the state makes an amendment to an applicable
190 provision of Part 1, Tax Collection; and

191 (b) as required to conform to the amendments to Part 1, Tax Collection.

192 (2) Except as provided in Subsections (3) through (5) and subject to Subsection (6):

193 (a) 50% of each dollar collected from the sales and use tax authorized by this part shall
194 be distributed to each county, city, and town on the basis of the percentage that the population
195 of the county, city, or town bears to the total population of all counties, cities, and towns in the
196 state; and

197 (b) (i) except as provided in Subsection (2)(b)(ii), 50% of each dollar collected from
198 the sales and use tax authorized by this part shall be distributed to each county, city, and town
199 on the basis of the location of the transaction as determined under Sections **59-12-211** through
200 **59-12-215**; and

201 (ii) 50% of each dollar collected from the sales and use tax authorized by this part
202 within a project area described in a project area plan adopted by the military installation
203 development authority under Title 63H, Chapter 1, Military Installation Development
204 Authority Act, shall be distributed to the military installation development authority created in
205 Section **63H-1-201**.

206 (3) (a) Beginning on July 1, 2017, and ending on June 30, 2022, the commission shall
207 distribute annually to a county, city, or town the distribution required by this Subsection (3) if:

208 (i) the county, city, or town is a:

209 (A) county of the third, fourth, fifth, or sixth class;

210 (B) city of the fifth class; or

211 (C) town;

212 (ii) the county, city, or town received a distribution under this section for the calendar
213 year beginning on January 1, 2008, that was less than the distribution under this section that the

214 county, city, or town received for the calendar year beginning on January 1, 2007;

215 (iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located
216 within the unincorporated area of the county for one or more days during the calendar year
217 beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121,
218 Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North
219 American Industry Classification System of the federal Executive Office of the President,
220 Office of Management and Budget; or

221 (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection
222 (3)(a)(i)(C), the city or town had located within the city or town for one or more days during
223 the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry
224 Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the
225 2002 North American Industry Classification System of the federal Executive Office of the
226 President, Office of Management and Budget; and

227 (iv) (A) for a county described in Subsection (3)(a)(i)(A), at least one establishment
228 described in Subsection (3)(a)(iii)(A) located within the unincorporated area of the county for
229 one or more days during the calendar year beginning on January 1, 2008, was not the holder of
230 a direct payment permit under Section [59-12-107.1](#); or

231 (B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection
232 (3)(a)(i)(C), at least one establishment described in Subsection (3)(a)(iii)(B) located within a
233 city or town for one or more days during the calendar year beginning on January 1, 2008, was
234 not the holder of a direct payment permit under Section [59-12-107.1](#).

235 (b) The commission shall make the distribution required by this Subsection (3) to a
236 county, city, or town described in Subsection (3)(a):

237 (i) from the distribution required by Subsection (2)(a); and

238 (ii) before making any other distribution required by this section.

239 (c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by
240 multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.

241 (ii) For purposes of Subsection (3)(c)(i):

242 (A) the numerator of the fraction is the difference calculated by subtracting the
243 distribution a county, city, or town described in Subsection (3)(a) received under this section
244 for the calendar year beginning on January 1, 2008, from the distribution under this section that

245 the county, city, or town received for the calendar year beginning on January 1, 2007; and

246 (B) the denominator of the fraction is \$333,583.

247 (d) A distribution required by this Subsection (3) is in addition to any other distribution
248 required by this section.

249 (4) (a) As used in this Subsection (4):

250 (i) "Eligible county, city, or town" means a county, city, or town that:

251 (A) for fiscal year 2012-13, received a tax revenue distribution under Subsection (4)(b)
252 equal to the amount described in Subsection (4)(b)(ii); and

253 (B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1,
254 2016.

255 (ii) "Minimum tax revenue distribution" means the total amount of tax revenue
256 distributions an eligible county, city, or town received from a tax imposed in accordance with
257 this part for fiscal year 2004-05.

258 (b) An eligible county, city, or town shall receive a tax revenue distribution for a tax
259 imposed in accordance with this part equal to the greater of:

260 (i) the payment required by Subsection (2); or

261 (ii) the minimum tax revenue distribution.

262 (5) (a) For purposes of this Subsection (5):

263 (i) "Annual local contribution" means [~~the lesser of \$200,000 or~~] an amount equal to
264 [~~1.8%~~] 1.99% of the participating local government's tax revenue distribution amount under
265 Subsection (2)[~~(a)~~](b) for the previous fiscal year.

266 (ii) "Participating local government" means a county or municipality, as defined in
267 Section 10-1-104, that is not an eligible municipality or grant eligible entity certified in
268 accordance with Section 35A-8-609.

269 (b) For revenue collected from the tax authorized by this part that is distributed on or
270 after January 1, [~~2019~~] 2020, the commission, before making a tax revenue distribution under
271 Subsection (2)[~~(a)~~](b) to a participating local government, shall:

272 (i) subtract one-twelfth of the annual local contribution for each participating local
273 government from the participating local government's tax revenue distribution under
274 Subsection (2)[~~(a)~~](b); and

275 (ii) deposit the amount described in Subsection (5)(b)(i) into the Homeless Shelter

276 Cities Mitigation Restricted Account created in Section [~~35A-8a-606~~] [35A-8-606](#).

277 (c) The commission shall make the calculation and distribution described in this
278 Subsection (5) after making the distributions described in Subsections (3) and (4).

279 (6) (a) Population figures for purposes of this section shall be based on the most recent
280 official census or census estimate of the United States Bureau of the Census.

281 (b) If a needed population estimate is not available from the United States Bureau of
282 the Census, population figures shall be derived from the estimate from the Utah Population
283 Committee.

284 (c) The population of a county for purposes of this section shall be determined only
285 from the unincorporated area of the county.

286 Section 5. Section **63J-1-801** is amended to read:

287 **63J-1-801. Definitions.**

288 As used in this part:

289 (1) "Committee" means the Homeless Coordinating Committee created in Section
290 [35A-8-601](#).

291 (2) "Eligible municipality" means a city of the third, fourth, or fifth class, a town, or a
292 metro township that:

293 (a) has, or is proposed to have, a homeless shelter within the city's, town's, or metro
294 township's geographic boundaries that:

295 (i) provides or is proposed to provide temporary shelter to homeless individuals;

296 (ii) has or is proposed to have the capacity to provide temporary shelter to at least 200
297 individuals per night; and

298 (iii) operates year-round and is not subject to restrictions that limit the hours, days,
299 weeks, or months of operation; and

300 (b) due to the location of a homeless shelter within the city's, town's, or metro
301 township's geographic boundaries, needs more public safety services than the city, town, or
302 metro township needed before the location of the homeless shelter within the city's, town's, or
303 metro township's geographic boundaries.

304 (3) "Grant eligible entity" means:

305 (a) the Department of Public Safety; or

306 (b) a city, town, or metro township that has:

307 (i) a homeless shelter within the city's, town's, or metro township's geographic
308 boundaries that:
309 (A) provides temporary shelter to homeless individuals;
310 (B) has the capacity to provide temporary shelter to at least 60 individuals per night;
311 and
312 (C) operates year-round and is not subject to restrictions that limit the hours, days,
313 weeks, or months of operation; and
314 (ii) increased community, social service, [~~and~~] or public safety service needs due to the
315 location of a homeless shelter within the city's, town's, or metro township's geographic
316 boundaries.

317 Section 6. **Effective date.**

318 This bill takes effect on January 1, 2020.