

Representative Merrill F. Nelson proposes the following substitute bill:

LOCAL OPTION SAND AND GRAVEL TAX

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Merrill F. Nelson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill provides for a local option sand and gravel tax.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes a county of the third, fourth, fifth, or sixth class to impose a tax on certain sand and gravel that is extracted and then sold or transported;
- ▶ establishes a tax rate cap and administrative procedures for the tax;
- ▶ provides for the expenditure of the revenue generated from the tax;
- ▶ creates nonrefundable tax credits;
- ▶ addresses record keeping and penalties for failure to comply with the tax; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



26 **59-1-306**, as last amended by Laws of Utah 2017, Chapter 430

27 ENACTS:

28 **59-29-101**, Utah Code Annotated 1953

29 **59-29-102**, Utah Code Annotated 1953

30 **59-29-103**, Utah Code Annotated 1953

31 **59-29-104**, Utah Code Annotated 1953

32 **59-29-105**, Utah Code Annotated 1953

33 **59-29-106**, Utah Code Annotated 1953



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

36 Section 1. Section **59-1-306** is amended to read:

37 **59-1-306. Definition -- State Tax Commission Administrative Charge Account --**
38 **Amount of administrative charge -- Deposit of revenues into the restricted account --**
39 **Interest deposited into General Fund -- Expenditure of money deposited into the**
40 **restricted account.**

41 (1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge
42 the commission administers under:

- 43 (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
- 44 (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
- 45 (c) Section **19-6-714**;
- 46 (d) Section **19-6-805**;
- 47 (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax
- 48 Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;
- 49 (f) Section **59-27-105**; [~~or~~]
- 50 (g) Chapter 29, Local Option Sand and Gravel Tax Act; or
- 51 [~~(g)~~] (h) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges.

52 (2) There is created a restricted account within the General Fund known as the "State
53 Tax Commission Administrative Charge Account."

54 (3) Subject to the other provisions of this section, the restricted account shall consist of
55 administrative charges the commission retains and deposits in accordance with this section.

56 (4) For purposes of this section, the administrative charge is a percentage of [~~revenues~~]

57 revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the
58 lesser of:

59 (a) 1.5%; or

60 (b) an equal percentage of [~~revenues~~] revenue the commission collects from each
61 qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the
62 qualifying taxes, fees, or charges.

63 (5) The commission shall deposit an administrative charge into the restricted account.

64 (6) Interest earned on the restricted account shall be deposited into the General Fund.

65 (7) The commission shall expend money appropriated by the Legislature to the
66 commission from the restricted account to administer qualifying taxes, fees, or charges.

67 Section 2. Section **59-29-101** is enacted to read:

68 **CHAPTER 29. LOCAL OPTION SAND AND GRAVEL TAX ACT**

69 **59-29-101. Title.**

70 This chapter is known as the "Local Option Sand and Gravel Tax Act."

71 Section 3. Section **59-29-102** is enacted to read:

72 **59-29-102. Definitions.**

73 As used in this part:

74 (1) "Annexation" means an annexation to an eligible county.

75 (2) "Annexing area" means an area that is annexed into an eligible county.

76 (3) "Class B road" means the same as that term is defined in Section [72-3-103](#).

77 (4) "Class C road" means the same as that term is defined in Section [72-3-104](#).

78 (5) "Class D road" means the same as that term is defined in Section [72-3-104](#).

79 (6) "Eligible county" means a county of the third, fourth, fifth, or sixth class.

80 (7) "Extraction site" means:

81 (a) a pit, quarry, or deposit that:

82 (i) contains sand and gravel; and

83 (ii) is operated in whole or in part within an eligible county; or

84 (b) any property contiguous to a pit, quarry, or deposit described in Subsection (7)(a)

85 that is used by an operator for stockpiling sand and gravel.

86 (8) "Operator" means any person that:

87 (a) is engaged in the business of extracting sand and gravel from an extraction site; and

88 (b) (i) exchanges or barterers, conditional or otherwise, sand and gravel for
89 consideration; or

90 (ii) transports or causes to be transported sand and gravel from an extraction site to
91 another place regardless of:

92 (A) who transports the sand and gravel; or

93 (B) the place to which the sand and gravel is transported.

94 (9) "Sand and gravel" means:

95 (a) sand;

96 (b) gravel; or

97 (c) any combination of sand and gravel.

98 (10) "Ton" means a short ton of 2,000 pounds.

99 Section 4. Section **59-29-103** is enacted to read:

100 **59-29-103. Sand and gravel tax -- Rate -- Imposition -- Use of tax revenue -- Tax**
101 **rate change -- Notice requirements.**

102 (1) Beginning on or after January 1, 2019, and ending on or before January 1, 2024, an
103 eligible county may, by ordinance, impose a tax of up to 15 cents per ton on sand and gravel
104 that is:

105 (a) extracted from an extraction site located within the eligible county; and

106 (b) (i) exchanged or bartered, conditional or otherwise, for consideration; or

107 (ii) transported or caused to be transported from an extraction site to another place
108 regardless of:

109 (A) who transports the sand and gravel; or

110 (B) the place to which the sand and gravel is transported.

111 (2) (a) Subject to Subsections (2)(b) through (d), an eligible county that imposes a tax
112 under this chapter shall expend the revenue collected from the tax for the maintenance of class
113 B roads, class C roads, and class D roads that:

114 (i) are within the boundaries of the eligible county; and

115 (ii) need maintenance due to the transportation of sand and gravel within the eligible
116 county.

117 (b) An eligible county shall consult with the municipalities located within the eligible
118 county's boundaries regarding the priority and need for maintaining a road described in

119 Subsection (2)(a).

120 (c) The eligible county shall expend the revenue collected from the tax imposed under
121 this chapter in proportion to the maintenance costs of the roads described in Subsection (2)(a).

122 (d) Revenue collected from a tax imposed under this chapter may not be used to
123 supplant existing general fund appropriations that an eligible county has budgeted for
124 transportation as of the date the tax becomes effective.

125 (3) (a) Except as provided in Subsection (5), if an eligible county enacts, repeals, or
126 changes the rate of tax under this chapter, the enactment, repeal, or change shall take effect:

127 (i) on the first day of a calendar quarter; and

128 (ii) after a 90-day period beginning on the date the commission receives the notice
129 described in Subsection (3)(b) from the eligible county.

130 (b) The notice required in Subsection (3)(a)(ii) shall state:

131 (i) that the eligible county will enact, repeal, or change the rate of a tax under this part;

132 (ii) the statutory authority for the tax;

133 (iii) the effective date of the tax; and

134 (iv) the rate of the tax.

135 (4) (a) Except as provided in Subsection (5), if an annexation will result in an
136 enactment, a repeal, or a change in the rate of a tax under this part for an annexing area, the
137 enactment, repeal, or change shall take effect:

138 (i) on the first day of a calendar quarter; and

139 (ii) after a 90-day period beginning on the date the commission receives the notice
140 described in Subsection (4)(b) from the eligible county that annexes the annexing area.

141 (b) The notice required in Subsection (4)(a)(ii) shall state:

142 (i) that the annexation will result in an enactment, a repeal, or a change in the rate of a
143 tax under this chapter for the annexing area;

144 (ii) the statutory authority for a tax;

145 (iii) the effective date of the tax; and

146 (iv) the rate of the tax.

147 (5) The tax imposed by this chapter is repealed on January 1, 2024, regardless of an
148 eligible county's:

149 (a) action under Subsection (3) or (4) after October 1, 2023; or

150 (b) failure to notify the commission of an action under Subsection (3) or (4) on or
151 before October 1, 2023.

152 Section 5. Section **59-29-104** is enacted to read:

153 **59-29-104. Administration and payment of tax -- Credit -- Rulemaking.**

154 (1) An operator shall file a return with the commission and pay the tax imposed under
155 this chapter:

156 (a) in an electronic format approved by the commission; and

157 (b) (i) quarterly on or before the last day of the month immediately following the last
158 day of the previous calendar quarter if:

159 (A) the operator is required to file a quarterly sales and use tax return with the
160 commission under Section [59-12-107](#); or

161 (B) the operator is not required to file a sales and use tax return with the commission
162 under Chapter 12, Sales and Use Tax Act; or

163 (ii) monthly on or before the last day of the month immediately following the last day
164 of the previous calendar month if the operator is required to file a monthly sales and use tax
165 return with the commission under Section [59-12-108](#).

166 (2) On the tax return described in Subsection (1), the operator shall indicate the number
167 of tons of sand and gravel that are extracted from each eligible county that imposes a tax under
168 this chapter.

169 (3) (a) An operator that is required to file a quarterly return described under Subsection
170 (1)(b)(i) may claim on the return a nonrefundable tax credit of \$600 against the amount of tax
171 for which the operator is liable to pay under this chapter for the quarter.

172 (b) An operator that is required to file a monthly return described under Subsection
173 (1)(b)(ii) may claim on the return a nonrefundable tax credit of \$200 against the amount of tax
174 for which the operator is liable to pay under this chapter for the month.

175 (4) The operator of an extraction site shall be responsible for filing the return required
176 by this section, but the operator may designate an agent to report and pay the tax.

177 (5) (a) Subject to Subsection (5)(b), the commission shall distribute to each eligible
178 county the amount of tax collected under this chapter on sand and gravel that is extracted from
179 an extraction site located within the eligible county.

180 (b) The commission shall retain and deposit an administrative charge in accordance

181 with Section 59-1-306 from the revenue the commission collects from a tax under this chapter.

182 (6) Taxes due under this chapter are in addition to all other taxes provided by law.

183 (7) The commission may make administrative rules in accordance with Title 63G,

184 Chapter 3, Utah Administrative Rulemaking Act, as necessary to enforce and administer the

185 provisions of this chapter.

186 Section 6. Section 59-29-105 is enacted to read:

187 **59-29-105. Records.**

188 (1) An operator shall maintain records, statements, books, or accounts necessary to

189 determine the amount of tax for which the operator is liable to pay under this chapter.

190 (2) The commission may require an operator, by notice served upon the person, to

191 make or keep the records, statements, books, or accounts described in Subsection (1) in a

192 manner in which the commission considers sufficient to show the amount of tax for which the

193 operator is liable to pay under this chapter.

194 (3) After notice by the commission, the operator shall open the records, statements,

195 books, or accounts specified in this section for examination by the commission or an

196 authorized agent of the commission.

197 Section 7. Section 59-29-106 is enacted to read:

198 **59-29-106. Penalties and interest.**

199 An operator that fails to comply with this chapter is subject to:

200 (1) penalties described in Section 59-1-401; and

201 (2) interest described in Section 59-1-402.

202 Section 8. **Effective date.**

203 This bill takes effect on January 1, 2019.