

Senator Scott D. Sandall proposes the following substitute bill:

SAND AND GRAVEL SALES TAX AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. Sandall

House Sponsor: Bridger Bolinder

LONG TITLE

General Description:

This bill modifies provisions related to local sales and use tax.

Highlighted Provisions:

This bill:

- ▶ distributes the local sales and use tax revenue from sales made by ready-mix concrete manufacturers to each county, city, and town with a sand and gravel extraction site within its boundaries;
 - ▶ specifies a formula by which the State Tax Commission apportions the revenue;
 - ▶ requires the county, city, or town to use the revenue for class B and class C roads;
 - ▶ provides direction related to sourcing in-state sales made by certain establishments;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



- 26 [17C-1-409](#), as last amended by Laws of Utah 2022, Chapter 307
- 27 [17C-1-411](#), as last amended by Laws of Utah 2018, Chapter 312
- 28 [17C-1-412](#), as last amended by Laws of Utah 2022, Chapter 21
- 29 [59-1-404](#), as last amended by Laws of Utah 2021, Chapter 367
- 30 [59-12-205](#), as last amended by Laws of Utah 2022, Chapters 59, 82 and 403
- 31 [59-12-212](#), as last amended by Laws of Utah 2009, Chapter 27

32

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

34 Section 1. Section [17C-1-409](#) is amended to read:

35 **[17C-1-409](#). Allowable uses of agency funds.**

36 (1) (a) An agency may use agency funds:

37 (i) for any purpose authorized under this title;

38 (ii) for administrative, overhead, legal, or other operating expenses of the agency,
39 including consultant fees and expenses under Subsection [17C-2-102](#)(1)(b)(ii)(B) or funding for
40 a business resource center;

41 (iii) subject to Section [11-41-103](#), to pay for, including financing or refinancing, all or
42 part of:

43 (A) project area development in a project area, including environmental remediation
44 activities occurring before or after adoption of the project area plan;

45 (B) housing-related expenditures, projects, or programs as described in Section
46 [17C-1-411](#) or [17C-1-412](#);

47 (C) an incentive or other consideration paid to a participant under a participation
48 agreement;

49 (D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the
50 installation and construction of any publicly owned building, facility, structure, landscaping, or
51 other improvement within the project area from which the project area funds are collected; or

52 (E) the cost of the installation of publicly owned infrastructure and improvements
53 outside the project area from which the project area funds are collected if the board and the
54 community legislative body determine by resolution that the publicly owned infrastructure and
55 improvements benefit the project area;

56 (iv) in an urban renewal project area that includes some or all of an inactive industrial

57 site and subject to Subsection (1)(e), to reimburse the Department of Transportation created
58 under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8,
59 Public Transit District Act, for the cost of:

- 60 (A) construction of a public road, bridge, or overpass;
- 61 (B) relocation of a railroad track within the urban renewal project area; or
- 62 (C) relocation of a railroad facility within the urban renewal project area;
- 63 (v) subject to Subsection (5), to transfer funds to a community that created the agency;

64 or

- 65 (vi) subject to Subsection (1)(f), for agency-wide project development under Part 10,
66 Agency Taxing Authority.

67 (b) The determination of the board and the community legislative body under
68 Subsection (1)(a)(iii)(E) regarding benefit to the project area shall be final and conclusive.

69 (c) An agency may not use project area funds received from a taxing entity for the
70 purposes stated in Subsection (1)(a)(iii)(D) under an urban renewal project area plan, an
71 economic development project area plan, or a community reinvestment project area plan
72 without the community legislative body's consent.

73 (d) (i) Subject to Subsection (1)(d)(ii), an agency may loan project area funds from a
74 project area fund to another project area fund if:

- 75 (A) the board approves; and
- 76 (B) the community legislative body approves.

77 (ii) An agency may not loan project area funds under Subsection (1)(d)(i) unless the
78 projections for agency funds are sufficient to repay the loan amount.

79 (iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5,
80 Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal
81 Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for
82 Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

83 (e) Before an agency may pay any tax increment or sales tax revenue under Subsection
84 (1)(a)(iv), the agency shall enter into an interlocal agreement defining the terms of the
85 reimbursement with:

- 86 (i) the Department of Transportation; or
- 87 (ii) a public transit district.

88 (f) Before an agency may use project area funds for agency-wide project development,
89 as defined in Section 17C-1-1001, the agency shall obtain the consent of the taxing entity
90 committee or each taxing entity party to an interlocal agreement with the agency.

91 (2) (a) Sales and use tax revenue that an agency receives from a taxing entity is not
92 subject to the prohibition or limitations of Title 11, Chapter 41, Prohibition on Retail Facility
93 Incentive Payments Act.

94 (b) An agency may use sales and use tax revenue that the agency receives under an
95 interlocal agreement under Section 17C-4-201 or 17C-5-204 for the uses authorized in the
96 interlocal agreement.

97 (3) (a) An agency may contract with the community that created the agency or another
98 public entity to use agency funds to reimburse the cost of items authorized by this title to be
99 paid by the agency that are paid by the community or other public entity.

100 (b) If land is acquired or the cost of an improvement is paid by another public entity
101 and the land or improvement is leased to the community, an agency may contract with and
102 make reimbursement from agency funds to the community.

103 (4) Notwithstanding any other provision of this title, an agency may not use project
104 area funds, project area incremental revenue as defined in Section 17C-1-1001, or property tax
105 revenue as defined in Section 17C-1-1001, to construct a local government building unless the
106 taxing entity committee or each taxing entity party to an interlocal agreement with the agency
107 consents.

108 (5) For the purpose of offsetting the community's annual local contribution to the
109 Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in
110 a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and
111 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in
112 Subsection [~~59-12-205(5)~~] 59-12-205(4).

113 Section 2. Section 17C-1-411 is amended to read:

114 **17C-1-411. Use of project area funds for housing-related improvements and for**
115 **relocating mobile home park residents -- Funds to be held in separate accounts.**

116 (1) An agency may use project area funds:

117 (a) to pay all or part of the value of the land for and the cost of installation,
118 construction, or rehabilitation of any housing-related building, facility, structure, or other

119 housing improvement, including infrastructure improvements related to housing, located in any
120 project area within the agency's boundaries;

121 (b) outside of a project area for the purpose of:

122 (i) replacing housing units lost by project area development; or

123 (ii) increasing, improving, or preserving the affordable housing supply within the
124 boundary of the agency;

125 (c) for relocating mobile home park residents displaced by project area development,
126 whether inside or outside a project area; or

127 (d) subject to Subsection (4), to transfer funds to a community that created the agency.

128 (2) (a) Each agency shall create a housing fund and separately account for project area
129 funds allocated under this section.

130 (b) Interest earned by the housing fund described in Subsection (2)(a), and any
131 payments or repayments made to the agency for loans, advances, or grants of any kind from the
132 housing fund, shall accrue to the housing fund.

133 (c) An agency that designates a housing fund under this section shall use the housing
134 fund for the purposes set forth in this section or Section [17C-1-412](#).

135 (3) An agency may lend, grant, or contribute funds from the housing fund to a person,
136 public entity, housing authority, private entity or business, or nonprofit corporation for
137 affordable housing or homeless assistance.

138 (4) For the purpose of offsetting the community's annual local contribution to the
139 Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in
140 a calendar year to a community under Subsections (1)(d), [17C-1-409\(1\)\(a\)\(v\)](#), and
141 [17C-1-412\(1\)\(a\)\(x\)](#) may not exceed the community's annual local contribution as defined in
142 Subsection [~~59-12-205(5)~~] [59-12-205\(4\)](#).

143 Section 3. Section **17C-1-412** is amended to read:

144 **17C-1-412. Use of housing allocation -- Separate accounting required -- Issuance**
145 **of bonds for housing -- Action to compel agency to provide housing allocation.**

146 (1) (a) An agency shall use the agency's housing allocation to:

147 (i) pay part or all of the cost of land or construction of income targeted housing within
148 the boundary of the agency, if practicable in a mixed income development or area;

149 (ii) pay part or all of the cost of rehabilitation of income targeted housing within the

150 boundary of the agency;

151 (iii) lend, grant, or contribute money to a person, public entity, housing authority,
152 private entity or business, or nonprofit corporation for income targeted housing within the
153 boundary of the agency;

154 (iv) plan or otherwise promote income targeted housing within the boundary of the
155 agency;

156 (v) pay part or all of the cost of land or installation, construction, or rehabilitation of
157 any building, facility, structure, or other housing improvement, including infrastructure
158 improvements, related to housing located in a project area where a board has determined that a
159 development impediment exists;

160 (vi) replace housing units lost as a result of the project area development;

161 (vii) make payments on or establish a reserve fund for bonds:

162 (A) issued by the agency, the community, or the housing authority that provides
163 income targeted housing within the community; and

164 (B) all or part of the proceeds of which are used within the community for the purposes
165 stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

166 (viii) if the community's fair share ratio at the time of the first adoption of the project
167 area budget is at least 1.1 to 1.0, make payments on bonds:

168 (A) that were previously issued by the agency, the community, or the housing authority
169 that provides income targeted housing within the community; and

170 (B) all or part of the proceeds of which were used within the community for the
171 purposes stated in Subsection (1)(a)(i), (ii), (iii), (iv), (v), or (vi);

172 (ix) relocate mobile home park residents displaced by project area development;

173 (x) subject to Subsection (7), transfer funds to a community that created the agency; or

174 (xi) pay for or make a contribution toward the acquisition, construction, or
175 rehabilitation of housing that:

176 (A) is located in the same county as the agency;

177 (B) is owned in whole or in part by, or is dedicated to supporting, a public nonprofit
178 college or university; and

179 (C) only students of the relevant college or university, including the students'
180 immediate families, occupy.

181 (b) As an alternative to the requirements of Subsection (1)(a), an agency may pay all or
182 any portion of the agency's housing allocation to:

183 (i) the community for use as described in Subsection (1)(a);

184 (ii) a housing authority that provides income targeted housing within the community
185 for use in providing income targeted housing within the community;

186 (iii) a housing authority established by the county in which the agency is located for
187 providing:

188 (A) income targeted housing within the county;

189 (B) permanent housing, permanent supportive housing, or a transitional facility, as
190 defined in Section 35A-5-302, within the county; or

191 (C) homeless assistance within the county;

192 (iv) the Olene Walker Housing Loan Fund, established under Title 35A, Chapter 8,
193 Part 5, Olene Walker Housing Loan Fund, for use in providing income targeted housing within
194 the community;

195 (v) pay for or make a contribution toward the acquisition, construction, or
196 rehabilitation of income targeted housing that is outside of the community if the housing is
197 located along or near a major transit investment corridor that services the community and the
198 related project has been approved by the community in which the housing is or will be located;
199 or

200 (vi) pay for or make a contribution toward the expansion of child care facilities within
201 the boundary of the agency, provided that any recipient of funds from the agency's housing
202 allocation reports annually to the agency on how the funds were used.

203 (2) (a) An agency may combine all or any portion of the agency's housing allocation
204 with all or any portion of one or more additional agency's housing allocations if the agencies
205 execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation
206 Act.

207 (b) An agency that has entered into an interlocal agreement as described in Subsection
208 (2)(a), meets the requirements of Subsection (1)(a) or (1)(b) if the use of the housing allocation
209 meets the requirements for at least one agency that is a party to the interlocal agreement.

210 (3) The agency shall create a housing fund and separately account for the agency's
211 housing allocation, together with all interest earned by the housing allocation and all payments

212 or repayments for loans, advances, or grants from the housing allocation.

213 (4) An agency may:

214 (a) issue bonds to finance a housing-related project under this section, including the
215 payment of principal and interest upon advances for surveys and plans or preliminary loans;
216 and

217 (b) issue refunding bonds for the payment or retirement of bonds under Subsection
218 (4)(a) previously issued by the agency.

219 (5) (a) Except as provided in Subsection (5)(b), an agency shall allocate money to the
220 housing fund each year in which the agency receives sufficient tax increment to make a
221 housing allocation required by the project area budget.

222 (b) Subsection (5)(a) does not apply in a year in which tax increment is insufficient.

223 (6) (a) Except as provided in Subsection (5)(b), if an agency fails to provide a housing
224 allocation in accordance with the project area budget and the housing plan adopted under
225 Subsection 17C-2-204(2), the loan fund board may bring legal action to compel the agency to
226 provide the housing allocation.

227 (b) In an action under Subsection (6)(a), the court:

228 (i) shall award the loan fund board reasonable attorney fees, unless the court finds that
229 the action was frivolous; and

230 (ii) may not award the agency the agency's attorney fees, unless the court finds that the
231 action was frivolous.

232 (7) For the purpose of offsetting the community's annual local contribution to the
233 Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in
234 a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and
235 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in
236 Subsection [~~59-12-205(5)~~] 59-12-205(4).

237 Section 4. Section 59-1-404 is amended to read:

238 **59-1-404. Definitions -- Confidentiality of commercial information obtained from**
239 **a property taxpayer or derived from the commercial information -- Rulemaking**
240 **authority -- Exceptions -- Written explanation -- Signature requirements -- Retention of**
241 **signed explanation by employer -- Penalty.**

242 (1) As used in this section:

243 (a) "Appraiser" means an individual who holds an appraiser's certificate or license
244 issued by the Division of Real Estate under Title 61, Chapter 2g, Real Estate Appraiser
245 Licensing and Certification Act and includes an individual associated with an appraiser who
246 assists the appraiser in preparing an appraisal.

247 (b) "Appraisal" is as defined in Section 61-2g-102.

248 (c) (i) "Commercial information" means:

249 (A) information of a commercial nature obtained from a property taxpayer regarding
250 the property taxpayer's property; or

251 (B) information derived from the information described in this Subsection (1)(c)(i).

252 (ii) (A) "Commercial information" does not include information regarding a property
253 taxpayer's property if the information is intended for public use.

254 (B) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
255 purposes of Subsection (1)(c)(ii)(A), the commission may by rule prescribe the circumstances
256 under which information is intended for public use.

257 (d) "Consultation service" is as defined in Section 61-2g-102.

258 (e) "Locally assessed property" means property that is assessed by a county assessor in
259 accordance with Chapter 2, Part 3, County Assessment.

260 (f) "Property taxpayer" means a person that:

261 (i) is a property owner; or

262 (ii) has in effect a contract with a property owner to:

263 (A) make filings on behalf of the property owner;

264 (B) process appeals on behalf of the property owner; or

265 (C) pay a tax under Chapter 2, Property Tax Act, on the property owner's property.

266 (g) "Property taxpayer's property" means property with respect to which a property
267 taxpayer:

268 (i) owns the property;

269 (ii) makes filings relating to the property;

270 (iii) processes appeals relating to the property; or

271 (iv) pays a tax under Chapter 2, Property Tax Act, on the property.

272 (h) "Protected commercial information" means commercial information that:

273 (i) identifies a specific property taxpayer; or

- 274 (ii) would reasonably lead to the identity of a specific property taxpayer.
- 275 (2) An individual listed under Subsection 59-1-403(2)(a) may not disclose commercial
- 276 information:
- 277 (a) obtained in the course of performing any duty that the individual listed under
- 278 Subsection 59-1-403(2)(a) performs under Chapter 2, Property Tax Act; or
- 279 (b) relating to an action or proceeding:
- 280 (i) with respect to a tax imposed on property in accordance with Chapter 2, Property
- 281 Tax Act; and
- 282 (ii) that is filed in accordance with:
- 283 (A) this chapter;
- 284 (B) Chapter 2, Property Tax Act; or
- 285 (C) this chapter and Chapter 2, Property Tax Act.
- 286 (3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual
- 287 listed under Subsection 59-1-403(2)(a) may disclose the following information:
- 288 (i) the assessed value of property;
- 289 (ii) the tax rate imposed on property;
- 290 (iii) a legal description of property;
- 291 (iv) the physical description or characteristics of property, including a street address or
- 292 parcel number for the property;
- 293 (v) the square footage or acreage of property;
- 294 (vi) the square footage of improvements on property;
- 295 (vii) the name of a property taxpayer;
- 296 (viii) the mailing address of a property taxpayer;
- 297 (ix) the amount of a property tax:
- 298 (A) assessed on property;
- 299 (B) due on property;
- 300 (C) collected on property;
- 301 (D) abated on property; or
- 302 (E) deferred on property;
- 303 (x) the amount of the following relating to property taxes due on property:
- 304 (A) interest;

- 305 (B) costs; or
- 306 (C) other charges;
- 307 (xi) the tax status of property, including:
- 308 (A) an exemption;
- 309 (B) a property classification;
- 310 (C) a bankruptcy filing; or
- 311 (D) whether the property is the subject of an action or proceeding under this title;
- 312 (xii) information relating to a tax sale of property; or
- 313 (xiii) information relating to single-family residential property.
- 314 (b) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual
- 315 listed under Subsection 59-1-403(2)(a) shall disclose, upon request, the information described
- 316 in Subsection 59-2-1007(9).
- 317 (c) (i) Subject to Subsection (3)(c)(ii), a person may receive the information described
- 318 in Subsection (3)(a) or (b) in written format.
- 319 (ii) The following may charge a reasonable fee to cover the actual cost of providing the
- 320 information described in Subsection (3)(a) or (b) in written format:
- 321 (A) the commission;
- 322 (B) a county;
- 323 (C) a city; or
- 324 (D) a town.
- 325 (4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an
- 326 individual listed under Subsection 59-1-403(2)(a) shall disclose commercial information:
- 327 (i) in accordance with judicial order;
- 328 (ii) on behalf of the commission in any action or proceeding:
- 329 (A) under this title;
- 330 (B) under another law under which a property taxpayer is required to disclose
- 331 commercial information; or
- 332 (C) to which the commission is a party;
- 333 (iii) on behalf of any party to any action or proceeding under this title if the commercial
- 334 information is directly involved in the action or proceeding; or
- 335 (iv) if the requirements of Subsection (4)(b) are met, that is:

336 (A) relevant to an action or proceeding:
337 (I) filed in accordance with this title; and
338 (II) involving property; or
339 (B) in preparation for an action or proceeding involving property.
340 (b) Commercial information shall be disclosed in accordance with Subsection
341 (4)(a)(iv):
342 (i) if the commercial information is obtained from:
343 (A) a real estate agent if the real estate agent is not a property taxpayer of the property
344 that is the subject of the action or proceeding;
345 (B) an appraiser if the appraiser:
346 (I) is not a property taxpayer of the property that is the subject of the action or
347 proceeding; and
348 (II) did not receive the commercial information pursuant to Subsection (8);
349 (C) a property manager if the property manager is not a property taxpayer of the
350 property that is the subject of the action or proceeding; or
351 (D) a property taxpayer other than a property taxpayer of the property that is the subject
352 of the action or proceeding;
353 (ii) regardless of whether the commercial information is disclosed in more than one
354 action or proceeding; and
355 (iii) (A) if a county board of equalization conducts the action or proceeding, the county
356 board of equalization takes action to provide that any commercial information disclosed during
357 the action or proceeding may not be disclosed by any person conducting or participating in the
358 action or proceeding except as specifically allowed by this section;
359 (B) if the commission conducts the action or proceeding, the commission enters a
360 protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
361 Act, makes rules specifying that any commercial information disclosed during the action or
362 proceeding may not be disclosed by any person conducting or participating in the action or
363 proceeding except as specifically allowed by this section; or
364 (C) if a court of competent jurisdiction conducts the action or proceeding, the court
365 enters a protective order specifying that any commercial information disclosed during the
366 action or proceeding may not be disclosed by any person conducting or participating in the

367 action or proceeding except as specifically allowed by this section.

368 (c) Notwithstanding Subsection (4)(a), a court may require the production of, and may
369 admit in evidence, commercial information that is specifically pertinent to the action or
370 proceeding.

371 (5) Notwithstanding Subsection (2), this section does not prohibit:

372 (a) the following from receiving a copy of any commercial information relating to the
373 basis for assessing a tax that is charged to a property taxpayer:

374 (i) the property taxpayer;

375 (ii) a duly authorized representative of the property taxpayer;

376 (iii) a person that has in effect a contract with the property taxpayer to:

377 (A) make filings on behalf of the property taxpayer;

378 (B) process appeals on behalf of the property taxpayer; or

379 (C) pay a tax under Chapter 2, Property Tax Act, on the property taxpayer's property;

380 (iv) a property taxpayer that purchases property from another property taxpayer; or

381 (v) a person that the property taxpayer designates in writing as being authorized to
382 receive the commercial information;

383 (b) the publication of statistics as long as the statistics are classified to prevent the
384 identification of a particular property taxpayer's commercial information; ~~or~~

385 (c) the inspection by the attorney general or other legal representative of the state or a
386 legal representative of a political subdivision of the state of the commercial information of a
387 property taxpayer:

388 (i) that brings action to set aside or review a tax or property valuation based on the
389 commercial information;

390 (ii) against which an action or proceeding is contemplated or has been instituted under
391 this title; or

392 (iii) against which the state or a political subdivision of the state has an unsatisfied
393 money judgment~~[-]; or~~

394 (d) the commission from disclosing commercial information to the extent necessary to
395 comply with the requirements of Subsection 59-12-205(5).

396 (6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah
397 Administrative Rulemaking Act, the commission may by rule establish standards authorizing

398 an individual listed under Subsection 59-1-403(2)(a) to disclose commercial information:

399 (a) (i) in a published decision; or

400 (ii) in carrying out official duties; and

401 (b) if that individual listed under Subsection 59-1-403(2)(a) consults with the property

402 taxpayer that provided the commercial information.

403 (7) Notwithstanding Subsection (2):

404 (a) an individual listed under Subsection 59-1-403(2)(a) may share commercial

405 information with the following:

406 (i) another individual listed in Subsection 59-1-403(2)(a)(i) or (ii); or

407 (ii) a representative, agent, clerk, or other officer or employee of a county as required

408 to fulfill an obligation created by Chapter 2, Property Tax Act;

409 (b) an individual listed under Subsection 59-1-403(2)(a) may perform the following to

410 fulfill an obligation created by Chapter 2, Property Tax Act:

411 (i) publish notice;

412 (ii) provide notice; or

413 (iii) file a lien; or

414 (c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah

415 Administrative Rulemaking Act, share commercial information gathered from returns and other

416 written statements with the federal government, any other state, any of the political

417 subdivisions of another state, or any political subdivision of this state, if these political

418 subdivisions or the federal government grant substantially similar privileges to this state.

419 (8) Notwithstanding Subsection (2):

420 (a) subject to the limitations in this section, an individual described in Subsection

421 59-1-403(2)(a) may share the following commercial information with an appraiser:

422 (i) the sales price of locally assessed property and the related financing terms;

423 (ii) capitalization rates and related rates and ratios related to the valuation of locally

424 assessed property; and

425 (iii) income and expense information related to the valuation of locally assessed

426 property; and

427 (b) except as provided in Subsection (4), an appraiser who receives commercial

428 information:

- 429 (i) may disclose the commercial information:
- 430 (A) to an individual described in Subsection 59-1-403(2)(a);
- 431 (B) to an appraiser;
- 432 (C) in an appraisal if protected commercial information is removed to protect its
- 433 confidential nature; or
- 434 (D) in performing a consultation service if protected commercial information is not
- 435 disclosed; and
- 436 (ii) may not use the commercial information:
- 437 (A) for a purpose other than to prepare an appraisal or perform a consultation service;
- 438 or
- 439 (B) for a purpose intended to be, or which could reasonably be foreseen to be,
- 440 anti-competitive to a property taxpayer.
- 441 (9) (a) The commission shall:
- 442 (i) prepare a written explanation of this section; and
- 443 (ii) make the written explanation described in Subsection (9)(a)(i) available to the
- 444 public.
- 445 (b) An employer of a person described in Subsection 59-1-403(2)(a) shall:
- 446 (i) provide the written explanation described in Subsection (9)(a)(i) to each person
- 447 described in Subsection 59-1-403(2)(a) who is reasonably likely to receive commercial
- 448 information;
- 449 (ii) require each person who receives a written explanation in accordance with
- 450 Subsection (9)(b)(i) to:
- 451 (A) read the written explanation; and
- 452 (B) sign the written explanation; and
- 453 (iii) retain each written explanation that is signed in accordance with Subsection
- 454 (9)(b)(ii) for a time period:
- 455 (A) beginning on the day on which a person signs the written explanation in
- 456 accordance with Subsection (9)(b)(ii); and
- 457 (B) ending six years after the day on which the employment of the person described in
- 458 Subsection (9)(b)(iii)(A) by the employer terminates.
- 459 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

460 commission shall by rule define "employer."

461 (10) (a) An individual described in Subsection (1)(a) or 59-1-403(2)(a), or an
462 individual that violates a protective order or similar limitation entered pursuant to Subsection
463 (4)(b)(iii), is guilty of a class A misdemeanor if that person:

464 (i) intentionally discloses commercial information in violation of this section; and

465 (ii) knows that the disclosure described in Subsection (10)(a)(i) is prohibited by this
466 section.

467 (b) If the individual described in Subsection (10)(a) is an officer or employee of the
468 state or a county and is convicted of violating this section, the individual shall be dismissed
469 from office and be disqualified from holding public office in this state for a period of five years
470 thereafter.

471 (c) If the individual described in Subsection (10)(a) is an appraiser, the appraiser shall
472 forfeit any certification or license received under Title 61, Chapter 2g, Real Estate Appraiser
473 Licensing and Certification Act, for a period of five years.

474 (d) If the individual described in Subsection (10)(a) is an individual associated with an
475 appraiser who assists the appraiser in preparing appraisals, the individual shall be prohibited
476 from becoming licensed or certified under Title 61, Chapter 2g, Real Estate Appraiser
477 Licensing and Certification Act, for a period of five years.

478 Section 5. Section 59-12-205 is amended to read:

479 **59-12-205. Ordinances to conform with statutory amendments -- Distribution of**
480 **tax revenue -- Determination of population.**

481 (1) To maintain in effect sales and use tax ordinances adopted pursuant to Section
482 59-12-204, a county, city, or town shall adopt amendments to the county's, city's, or town's
483 sales and use tax ordinances:

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

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

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

488 (i) 50% of each dollar collected from the sales and use tax authorized by this part shall
489 be distributed to each county, city, and town on the basis of the percentage that the population
490 of the county, city, or town bears to the total population of all counties, cities, and towns in the

491 state; and

492 (ii) (A) except as provided in Subsections (2)(a)(ii)(B), (C), and (D), 50% of each
493 dollar collected from the sales and use tax authorized by this part shall be distributed to each
494 county, city, and town on the basis of the location of the transaction as determined under
495 Sections 59-12-211 through 59-12-215;

496 (B) 50% of each dollar collected from the sales and use tax authorized by this part
497 within a project area described in a project area plan adopted by the military installation
498 development authority under Title 63H, Chapter 1, Military Installation Development
499 Authority Act, shall be distributed to the military installation development authority created in
500 Section 63H-1-201;

501 (C) beginning July 1, 2022, 50% of each dollar collected from the sales and use tax
502 authorized by this part within a project area under Title 11, Chapter 58, Utah Inland Port
503 Authority Act, shall be distributed to the Utah Inland Port Authority, created in Section
504 11-58-201; and

505 (D) 50% of each dollar collected from the sales and use tax authorized by this part
506 within the lake authority boundary, as defined in Section 11-65-101, shall be distributed to the
507 Utah Lake Authority, created in Section 11-65-201, beginning the next full calendar quarter
508 following the creation of the Utah Lake Authority.

509 (b) Subsection (2)(a)(ii)(C) does not apply to sales and use tax revenue collected before
510 July 1, 2022.

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

513 ~~[(i) the county, city, or town is a:]~~

514 ~~[(A) county of the third, fourth, fifth, or sixth class;]~~

515 ~~[(B) city of the fifth class; or]~~

516 ~~[(C) town;]~~

517 ~~[(ii) the county, city, or town received a distribution under this section for the calendar~~
518 ~~year beginning on January 1, 2008, that was less than the distribution under this section that the~~
519 ~~county, city, or town received for the calendar year beginning on January 1, 2007;]~~

520 ~~[(iii) (A) for a county described in Subsection (3)(a)(i)(A), the county had located~~
521 ~~within the unincorporated area of the county for one or more days during the calendar year~~

522 ~~beginning on January 1, 2008, an establishment described in NAICS Industry Group 2121,~~
523 ~~Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the 2002 North~~
524 ~~American Industry Classification System of the federal Executive Office of the President,~~
525 ~~Office of Management and Budget; or]~~

526 ~~[(B) for a city described in Subsection (3)(a)(i)(B) or a town described in Subsection~~
527 ~~(3)(a)(i)(C), the city or town had located within the city or town for one or more days during~~
528 ~~the calendar year beginning on January 1, 2008, an establishment described in NAICS Industry~~
529 ~~Group 2121, Coal Mining, or NAICS Code 213113, Support Activities for Coal Mining, of the~~
530 ~~2002 North American Industry Classification System of the federal Executive Office of the~~
531 ~~President, Office of Management and Budget; and]~~

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

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

540 ~~[(b) The commission shall make the distribution required by this Subsection (3) to a~~
541 ~~county, city, or town described in Subsection (3)(a).]~~

542 ~~[(i) from the distribution required by Subsection (2)(a); and]~~

543 ~~[(ii) before making any other distribution required by this section.]~~

544 ~~[(c) (i) For purposes of this Subsection (3), the distribution is the amount calculated by~~
545 ~~multiplying the fraction calculated under Subsection (3)(c)(ii) by \$333,583.]~~

546 ~~[(ii) For purposes of Subsection (3)(c)(i):]~~

547 ~~[(A) the numerator of the fraction is the difference calculated by subtracting the~~
548 ~~distribution a county, city, or town described in Subsection (3)(a) received under this section~~
549 ~~for the calendar year beginning on January 1, 2008, from the distribution under this section that~~
550 ~~the county, city, or town received for the calendar year beginning on January 1, 2007; and]~~

551 ~~[(B) the denominator of the fraction is \$333,583.]~~

552 ~~[(d) A distribution required by this Subsection (3) is in addition to any other~~

553 distribution required by this section.]

554 [(4)] (3) (a) As used in this Subsection [(4)] (3):

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

556 (A) for fiscal year 2012-13, received a tax revenue distribution under Subsection

557 [(4)(b)] (3)(b) equal to the amount described in Subsection [(4)(b)(i)] (3)(b)(i); and

558 (B) does not impose a sales and use tax under Section 59-12-2103 on or before July 1,
559 2016.

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

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

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

566 (ii) the minimum tax revenue distribution.

567 [(5)] (4) (a) For purposes of this Subsection [(5)] (4):

568 (i) "Annual local contribution" means the lesser of \$200,000 or an amount equal to
569 1.8% of the participating local government's tax revenue distribution amount under Subsection
570 (2)(a) for the previous fiscal year.

571 (ii) "Participating local government" means a county or municipality, as defined in
572 Section 10-1-104, that is not an eligible municipality certified in accordance with Section
573 35A-16-404.

574 (b) For revenue collected from the tax authorized by this part that is distributed on or
575 after January 1, 2019, the commission, before making a tax revenue distribution under
576 Subsection (2)(a) to a participating local government, shall:

577 (i) subtract one-twelfth of the annual local contribution for each participating local
578 government from the participating local government's tax revenue distribution under
579 Subsection (2)(a); and

580 (ii) deposit the amount described in Subsection [(5)(b)(i)] (4)(b)(i) into the Homeless
581 Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

582 (c) For a participating local government that qualifies to receive a distribution
583 described in Subsection (3) [or (4)], the commission shall apply the provisions of this

584 Subsection ~~(5)~~ (4) after the commission applies the provisions of ~~[Subsections (3) and (4)]~~
585 Subsection (3).

586 (5) (a) As used in this Subsection (5):

587 (i) "Annual dedicated sand and gravel sales tax revenue" means an amount equal to the
588 total revenue an establishment described in NAICS Code 327320, Ready-Mix Concrete
589 Manufacturing, of the 2022 North American Industry Classification System of the federal
590 Executive Office of the President, Office of Management and Budget, collects and remits under
591 this part for a calendar year.

592 (ii) "Sand and gravel" means sand, gravel, or a combination of sand and gravel.

593 (iii) "Sand and gravel extraction site" means a pit, quarry, or deposit that:

594 (A) contains sand and gravel; and

595 (B) is assessed by the commission in accordance with Section [59-2-201](#).

596 (iv) "Ton" means a short ton of 2,000 pounds.

597 (v) "Tonnage ratio" means the ratio of:

598 (A) the total amount of sand and gravel, measured in tons, sold during a calendar year
599 from all sand and gravel extraction sites located within a county, city, or town; to

600 (B) the total amount of sand and gravel, measured in tons, sold during the same
601 calendar year from sand and gravel extraction sites statewide.

602 (b) For purposes of calculating the ratio described in Subsection (5)(a)(v), the
603 commission shall:

604 (i) use the gross sales data provided to the commission as part of the commission's
605 property tax valuation process; and

606 (ii) if a sand and gravel extraction site operates as a unit across municipal or county
607 lines, apportion the reported tonnage among the counties, cities, or towns based on the
608 percentage of the sand and gravel extraction site located in each county, city, or town, as
609 approximated by the commission.

610 (c) (i) Beginning July 2023, and each July thereafter, the commission shall distribute
611 from total collections under this part an amount equal to the annual dedicated sand and gravel
612 sales tax revenue for the preceding calendar year to each county, city, or town in the same
613 proportion as the county's, city's, or town's tonnage ratio for the preceding calendar year.

614 (ii) The commission shall ensure that the revenue distributed under this Subsection

615 (5)(c) is drawn from each jurisdiction's collections in proportion to the jurisdiction's share of
616 total collections for the preceding 12-month period.

617 (d) A county, city, or town shall use revenue described in Subsection (5)(c) for class B
618 or class C roads.

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

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

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

626 Section 6. Section **59-12-212** is amended to read:

627 **59-12-212. Location of certain transactions if receipt of order and receipt of**
628 **tangible personal property or product take place in this state -- Location of sale, lease, or**
629 **rental of a service -- Exception from tax, penalty, or interest.**

630 (1) The location of the sale of tangible personal property or a product transferred
631 electronically is the location where the seller receives the order if:

632 (a) the seller receives the order for the tangible personal property or product transferred
633 electronically in this state;

634 (b) receipt of the tangible personal property or product transferred electronically by the
635 purchaser or the purchaser's donee occurs in this state;

636 (c) the location where receipt of the tangible personal property or product transferred
637 electronically by the purchaser occurs is determined in accordance with Subsections (3)
638 through (6); and

639 (d) at the time the seller receives the order, the record keeping system that the seller
640 uses to calculate the proper amount of tax imposed under this chapter captures the location
641 where the order is received.

642 (2) (a) Subject to Subsections (2)(b) through (d), for purposes of this section, the
643 location where a seller receives an order is:

644 (i) a physical location of the seller or a third party; and

645 (ii) where an order is initially received by or on behalf of the seller.

646 (b) A physical location of a seller or third party includes the following if operated by or
647 on behalf of the seller:

648 (i) an automated order receipt system;

649 (ii) an office; or

650 (iii) an outlet.

651 (c) The location where a seller receives an order does not include the location:

652 (i) where an order is accepted, completed, or fulfilled; or

653 (ii) from which tangible personal property or a product transferred electronically is
654 shipped.

655 (d) (i) For purposes of this Subsection (2), an order is considered to be received when
656 all of the information necessary to the determination of whether the order can be accepted has
657 been received by or on behalf of the seller.

658 (ii) If the seller is an establishment within any of the following classifications, as
659 described in the 2022 North American Industry Classification System of the federal Executive
660 Office of the President, Office of Management and Budget, the seller or the seller's agent has
661 not received all the information described in Subsection (2)(d)(i) until the purchaser
662 communicates to the fulfillment location that the purchaser is prepared to receive the order:

663 (A) NAICS Industry Group 2123, Nonmetallic Mineral Mining and Quarrying;

664 (B) NAICS Code 327320, Ready-Mix Concrete Manufacturing; or

665 (C) NAICS Code 324121, Asphalt Paving Mixture and Block Manufacturing.

666 (3) (a) A purchaser is not liable for a tax, penalty, or interest on a sale for which the
667 purchaser remits a tax under this chapter to the seller in the amount the seller invoices if the
668 amount is calculated at the total tax rate applicable to the location where:

669 (i) receipt by the purchaser occurs; or

670 (ii) the seller receives the order.

671 (b) A purchaser may rely on a written representation by the seller as to the location
672 where the seller receives the order for the sale.

673 (c) If a purchaser does not have a written representation by the seller as to the location
674 where the seller receives the order for the sale, the purchaser may determine the total tax rate
675 applicable to the location where the order is received by using a location indicated by a
676 business address for the seller that is available from the business records:

- 677 (i) of the purchaser; and
- 678 (ii) that are maintained in the ordinary course of the purchaser's business.
- 679 (4) If an item of tangible personal property or an item that is a product transferred
- 680 electronically is sold with an item that is subject to Section 59-12-211, all of the items are
- 681 subject to this section if the items are:
 - 682 (a) sold under a single contract;
 - 683 (b) sold in the same transaction; and
 - 684 (c) billed on the same billing statement.
- 685 (5) Notwithstanding Section 59-12-211, a seller may elect to determine the location of
- 686 a sale, lease, or rental of a service under this section if the seller makes any sale, lease, or rental
- 687 that is subject to this section.
- 688 (6) Except as provided in Subsection (5), this section does not apply to the lease or
- 689 rental of:
 - 690 (a) tangible personal property; or
 - 691 (b) a product transferred electronically.