

SB0075S02 compared with SB0075

~~text~~ shows text that was in SB0075 but was deleted in SB0075S02.

text shows text that was not in SB0075 but was inserted into SB0075S02.

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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 ~~the distribution of specified~~ provisions related to local ~~property~~ sales and use tax ~~revenue~~.

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

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- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17C-1-409, as last amended by Laws of Utah 2022, Chapter 307

17C-1-411, as last amended by Laws of Utah 2018, Chapter 312

17C-1-412, as last amended by Laws of Utah 2022, Chapter 21

59-1-404, as last amended by Laws of Utah 2021, Chapter 367

59-12-205, as last amended by Laws of Utah 2022, Chapters 59, 82 and 403

[59-12-212](#), as last amended by **[Laws of Utah 2009, Chapter 27](#)**

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

Section 1. Section **17C-1-409** is amended to read:

17C-1-409. Allowable uses of agency funds.

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

(i) for any purpose authorized under this title;

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

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

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

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

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

(D) subject to Subsections (1)(c) and (4), the value of the land for and the cost of the

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installation and construction of any publicly owned building, facility, structure, landscaping, or other improvement within the project area from which the project area funds are collected; or

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

(iv) in an urban renewal project area that includes some or all of an inactive industrial site and subject to Subsection (1)(e), to reimburse the Department of Transportation created under Section 72-1-201, or a public transit district created under Title 17B, Chapter 2a, Part 8, Public Transit District Act, for the cost of:

(A) construction of a public road, bridge, or overpass;

(B) relocation of a railroad track within the urban renewal project area; or

(C) relocation of a railroad facility within the urban renewal project area;

(v) subject to Subsection (5), to transfer funds to a community that created the agency;

or

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

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

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

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

(A) the board approves; and

(B) the community legislative body approves.

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

(iii) A loan described in Subsection (1)(d) is not subject to Title 10, Chapter 5, Uniform Fiscal Procedures Act for Utah Towns, Title 10, Chapter 6, Uniform Fiscal

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Procedures Act for Utah Cities, Title 17, Chapter 36, Uniform Fiscal Procedures Act for Counties, or Title 17B, Chapter 1, Part 6, Fiscal Procedures for Local Districts.

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

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

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

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

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

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

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

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

(5) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(v), 17C-1-411(1)(d), and 17C-1-412(1)(a)(x) may not exceed the community's annual local contribution as defined in

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Subsection [~~59-12-205(5)~~] 59-12-205(4).

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

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

(1) An agency may use project area funds:

(a) to pay all or part of the value of the land for and the cost of installation, construction, or rehabilitation of any housing-related building, facility, structure, or other housing improvement, including infrastructure improvements related to housing, located in any project area within the agency's boundaries;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) pay part or all of the cost of rehabilitation of income targeted housing within the boundary of the agency;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) income targeted housing within the county;

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

(C) homeless assistance within the county;

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

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

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

(2) (a) An agency may combine all or any portion of the agency's housing allocation with all or any portion of one or more additional agency's housing allocations if the agencies

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execute an interlocal agreement in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

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

(3) The agency shall create a housing fund and separately account for the agency's housing allocation, together with all interest earned by the housing allocation and all payments or repayments for loans, advances, or grants from the housing allocation.

(4) An agency may:

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

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

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

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

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

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

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

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

(7) For the purpose of offsetting the community's annual local contribution to the Homeless Shelter Cities Mitigation Restricted Account, the total amount an agency transfers in a calendar year to a community under Subsections (1)(a)(x), 17C-1-409(1)(a)(v), and 17C-1-411(1)(d) may not exceed the community's annual local contribution as defined in

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Subsection [~~59-12-205(5)~~] 59-12-205(4).

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

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

(1) As used in this section:

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

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

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

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

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

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

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

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

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

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

(i) is a property owner; or

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

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

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

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

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

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taxpayer:

- (i) owns the property;
 - (ii) makes filings relating to the property;
 - (iii) processes appeals relating to the property; or
 - (iv) pays a tax under Chapter 2, Property Tax Act, on the property.
- (h) "Protected commercial information" means commercial information that:
- (i) identifies a specific property taxpayer; or
 - (ii) would reasonably lead to the identity of a specific property taxpayer.
- (2) An individual listed under Subsection 59-1-403(2)(a) may not disclose commercial

information:

- (a) obtained in the course of performing any duty that the individual listed under Subsection 59-1-403(2)(a) performs under Chapter 2, Property Tax Act; or
- (b) relating to an action or proceeding:
 - (i) with respect to a tax imposed on property in accordance with Chapter 2, Property Tax Act; and

- (ii) that is filed in accordance with:
 - (A) this chapter;
 - (B) Chapter 2, Property Tax Act; or
 - (C) this chapter and Chapter 2, Property Tax Act.

(3) (a) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual listed under Subsection 59-1-403(2)(a) may disclose the following information:

- (i) the assessed value of property;
- (ii) the tax rate imposed on property;
- (iii) a legal description of property;
- (iv) the physical description or characteristics of property, including a street address or parcel number for the property;
- (v) the square footage or acreage of property;
- (vi) the square footage of improvements on property;
- (vii) the name of a property taxpayer;
- (viii) the mailing address of a property taxpayer;
- (ix) the amount of a property tax:

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- (A) assessed on property;
- (B) due on property;
- (C) collected on property;
- (D) abated on property; or
- (E) deferred on property;
- (x) the amount of the following relating to property taxes due on property:
 - (A) interest;
 - (B) costs; or
 - (C) other charges;
- (xi) the tax status of property, including:
 - (A) an exemption;
 - (B) a property classification;
 - (C) a bankruptcy filing; or
 - (D) whether the property is the subject of an action or proceeding under this title;
- (xii) information relating to a tax sale of property; or
- (xiii) information relating to single-family residential property.

(b) Notwithstanding Subsection (2) and subject to Subsection (3)(c), an individual listed under Subsection 59-1-403(2)(a) shall disclose, upon request, the information described in Subsection 59-2-1007(9).

(c) (i) Subject to Subsection (3)(c)(ii), a person may receive the information described in Subsection (3)(a) or (b) in written format.

(ii) The following may charge a reasonable fee to cover the actual cost of providing the information described in Subsection (3)(a) or (b) in written format:

- (A) the commission;
- (B) a county;
- (C) a city; or
- (D) a town.

(4) (a) Notwithstanding Subsection (2) and except as provided in Subsection (4)(c), an individual listed under Subsection 59-1-403(2)(a) shall disclose commercial information:

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding:

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- (A) under this title;
 - (B) under another law under which a property taxpayer is required to disclose commercial information; or
 - (C) to which the commission is a party;
 - (iii) on behalf of any party to any action or proceeding under this title if the commercial information is directly involved in the action or proceeding; or
 - (iv) if the requirements of Subsection (4)(b) are met, that is:
 - (A) relevant to an action or proceeding:
 - (I) filed in accordance with this title; and
 - (II) involving property; or
 - (B) in preparation for an action or proceeding involving property.
- (b) Commercial information shall be disclosed in accordance with Subsection (4)(a)(iv):
- (i) if the commercial information is obtained from:
 - (A) a real estate agent if the real estate agent is not a property taxpayer of the property that is the subject of the action or proceeding;
 - (B) an appraiser if the appraiser:
 - (I) is not a property taxpayer of the property that is the subject of the action or proceeding; and
 - (II) did not receive the commercial information pursuant to Subsection (8);
 - (C) a property manager if the property manager is not a property taxpayer of the property that is the subject of the action or proceeding; or
 - (D) a property taxpayer other than a property taxpayer of the property that is the subject of the action or proceeding;
 - (ii) regardless of whether the commercial information is disclosed in more than one action or proceeding; and
 - (iii) (A) if a county board of equalization conducts the action or proceeding, the county board of equalization takes action to provide that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section;
 - (B) if the commission conducts the action or proceeding, the commission enters a

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protective order or, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, makes rules specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section; or

(C) if a court of competent jurisdiction conducts the action or proceeding, the court enters a protective order specifying that any commercial information disclosed during the action or proceeding may not be disclosed by any person conducting or participating in the action or proceeding except as specifically allowed by this section.

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

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

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

(i) the property taxpayer;

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

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

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

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

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

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

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

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

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

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

(ii) against which an action or proceeding is contemplated or has been instituted under

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this title; or

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

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

(6) Notwithstanding Subsection (2), in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule establish standards authorizing an individual listed under Subsection 59-1-403(2)(a) to disclose commercial information:

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

(ii) in carrying out official duties; and

(b) if that individual listed under Subsection 59-1-403(2)(a) consults with the property taxpayer that provided the commercial information.

(7) Notwithstanding Subsection (2):

(a) an individual listed under Subsection 59-1-403(2)(a) may share commercial information with the following:

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

(ii) a representative, agent, clerk, or other officer or employee of a county as required to fulfill an obligation created by Chapter 2, Property Tax Act;

(b) an individual listed under Subsection 59-1-403(2)(a) may perform the following to fulfill an obligation created by Chapter 2, Property Tax Act:

(i) publish notice;

(ii) provide notice; or

(iii) file a lien; or

(c) the commission may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, share commercial information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, if these political subdivisions or the federal government grant substantially similar privileges to this state.

(8) Notwithstanding Subsection (2):

(a) subject to the limitations in this section, an individual described in Subsection 59-1-403(2)(a) may share the following commercial information with an appraiser:

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(i) the sales price of locally assessed property and the related financing terms;
(ii) capitalization rates and related rates and ratios related to the valuation of locally assessed property; and

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

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

(i) may disclose the commercial information:

(A) to an individual described in Subsection 59-1-403(2)(a);

(B) to an appraiser;

(C) in an appraisal if protected commercial information is removed to protect its confidential nature; or

(D) in performing a consultation service if protected commercial information is not disclosed; and

(ii) may not use the commercial information:

(A) for a purpose other than to prepare an appraisal or perform a consultation service;

or

(B) for a purpose intended to be, or which could reasonably be foreseen to be, anti-competitive to a property taxpayer.

(9) (a) The commission shall:

(i) prepare a written explanation of this section; and

(ii) make the written explanation described in Subsection (9)(a)(i) available to the public.

(b) An employer of a person described in Subsection 59-1-403(2)(a) shall:

(i) provide the written explanation described in Subsection (9)(a)(i) to each person described in Subsection 59-1-403(2)(a) who is reasonably likely to receive commercial information;

(ii) require each person who receives a written explanation in accordance with Subsection (9)(b)(i) to:

(A) read the written explanation; and

(B) sign the written explanation; and

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(iii) retain each written explanation that is signed in accordance with Subsection (9)(b)(ii) for a time period:

(A) beginning on the day on which a person signs the written explanation in accordance with Subsection (9)(b)(ii); and

(B) ending six years after the day on which the employment of the person described in Subsection (9)(b)(iii)(A) by the employer terminates.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall by rule define "employer."

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(C) town;]~~

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) for fiscal year 2012-13, received a tax revenue distribution under Subsection ~~[(4)(b)] (3)(b)~~ equal to the amount described in Subsection ~~[(4)(b)(ii)] (3)(b)(ii)~~; and

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

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

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

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

(ii) the minimum tax revenue distribution.

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

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

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

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

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

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

(c) For a participating local government that qualifies to receive a distribution described in Subsection (3) [~~or (4)~~], the commission shall apply the provisions of this Subsection [~~(5)~~] (4) after the commission applies the provisions of [~~Subsections (3) and (4)~~] Subsection (3).

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

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

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

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

(A) contains sand and gravel; and

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

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

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

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

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

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

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

(ii) if a sand and gravel extraction site operates as a unit across municipal or county lines, apportion the reported tonnage among the counties, cities, or towns based on the

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percentage of the sand and gravel extraction site located in each county, city, or town, as approximated by the commission.

(c) (i) ~~On~~ ~~Beginning~~ July ~~1, 2023~~, and each July ~~1~~ thereafter, the commission shall distribute from total collections under this part an amount equal to the annual dedicated sand and gravel sales tax revenue for the preceding calendar year to each county, city, or town in the same proportion as the county's, city's, or town's tonnage ratio for the preceding calendar year.

(ii) The commission shall ensure that the revenue distributed under this Subsection (5)(c) is drawn from each jurisdiction's collections in proportion to the jurisdiction's share of total collections for the preceding 12-month period.

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

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

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

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

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

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

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

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

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

(c) the location where receipt of the tangible personal property or product transferred electronically by the purchaser occurs is determined in accordance with Subsections (3)

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through (6); and

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

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

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

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

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

(i) an automated order receipt system;

(ii) an office; or

(iii) an outlet.

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

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

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

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

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

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

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

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

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

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(i) receipt by the purchaser occurs; or

(ii) the seller receives the order.

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

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

(i) of the purchaser; and

(ii) that are maintained in the ordinary course of the purchaser's business.

(4) If an item of tangible personal property or an item that is a product transferred electronically is sold with an item that is subject to Section 59-12-211, all of the items are subject to this section if the items are:

(a) sold under a single contract;

(b) sold in the same transaction; and

(c) billed on the same billing statement.

(5) Notwithstanding Section 59-12-211, a seller may elect to determine the location of a sale, lease, or rental of a service under this section if the seller makes any sale, lease, or rental that is subject to this section.

(6) Except as provided in Subsection (5), this section does not apply to the lease or rental of:

(a) tangible personal property; or

(b) a product transferred electronically.