

**LOCAL OPTION SAND AND GRAVEL TAX**

2018 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Merrill F. Nelson**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ authorizes a county or municipality to impose a tax on certain sand and gravel that is extracted and then sold or transported;
- ▶ establishes a tax rate cap and administrative procedures for the tax;
- ▶ creates nonrefundable tax credits;
- ▶ addresses record keeping and penalties for failure to comply with the tax; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

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

ENACTS:

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



- 28            **59-29-102**, Utah Code Annotated 1953
- 29            **59-29-103**, Utah Code Annotated 1953
- 30            **59-29-104**, Utah Code Annotated 1953
- 31            **59-29-105**, Utah Code Annotated 1953
- 32            **59-29-106**, Utah Code Annotated 1953



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

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

36            **59-1-306. Definition -- State Tax Commission Administrative Charge Account --**  
 37 **Amount of administrative charge -- Deposit of revenues into the restricted account --**  
 38 **Interest deposited into General Fund -- Expenditure of money deposited into the**  
 39 **restricted account.**

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

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

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

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

55            (4) For purposes of this section, the administrative charge is a percentage of [~~revenues~~]  
 56 revenue the commission collects from each qualifying tax, fee, or charge of not to exceed the  
 57 lesser of:

- 58            (a) 1.5%; or

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

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

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

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

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

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

68 **59-29-101. Title.**

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

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

71 **59-29-102. Definitions.**

72 As used in this part:

73 (1) "Annexation" means an annexation to a local entity.

74 (2) "Annexing area" means an area that is annexed into a local entity.

75 (3) "Extraction site" means:

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

77 (i) contains sand and gravel; and

78 (ii) is operated in whole or in part within a local entity; or

79 (b) any property contiguous to a pit, quarry, or deposit described in Subsection (3)(a)  
80 that is used by an operator for stockpiling sand and gravel.

81 (4) "Local entity" means:

82 (a) a county under Title 17, Chapter 2, County Consolidations and Annexations; or

83 (b) a municipality under Title 10, Chapter 2, Part 4, Annexation.

84 (5) "Operator" means any person that:

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

86 (b) makes a sand and gravel sale.

87 (6) "Sand and gravel" means:

88 (a) sand;

89 (b) gravel; or

90 (c) any combination of sand and gravel.

91 (7) "Sand and gravel sale" means:

92 (a) exchanging or bartering, conditional or otherwise, sand and gravel for  
93 consideration; or

94 (b) transporting or causing to be transported sand and gravel from an extraction site to  
95 another place regardless of:

96 (i) who transports the sand and gravel; or

97 (ii) the place to which the sand and gravel is transported.

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

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

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

102 (1) (a) Subject to the other provisions of this chapter, a local entity may, by ordinance,  
103 impose a tax under this chapter:

104 (i) at a rate of up to 10 cents per ton; and

105 (ii) on the portion of a sand and gravel sale that is sand and gravel extracted from an  
106 extraction site located within the local entity.

107 (b) (i) Only one local entity may impose a tax under this chapter within a municipality.

108 (ii) The local entity that first notifies the commission, in a manner prescribed by the  
109 commission, has priority to impose a tax under this chapter within a municipality.

110 (2) A local entity imposing a tax under this chapter shall expend the revenue collected  
111 from the tax for the construction and maintenance of highways under the jurisdiction of the  
112 local entity imposing the tax.

113 (3) (a) If a local entity enacts, repeals, or changes the rate of tax under this chapter, the  
114 enactment, repeal, or change shall take effect:

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

116 (ii) after a 90-day period beginning on the date the commission receives the notice  
117 described in Subsection (3)(b) from the local entity.

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

119 (i) that the local entity will enact, repeal, or change the rate of a tax under this part;

120 (ii) the statutory authority for the tax;

- 121 (iii) the effective date of the tax; and  
122 (iv) the rate of the tax.  
123 (4) (a) If an annexation will result in an enactment, a repeal, or a change in the rate of a  
124 tax under this part for an annexing area, the enactment, repeal, or change shall take effect:  
125 (i) on the first day of a calendar quarter; and  
126 (ii) after a 90-day period beginning on the date the commission receives the notice  
127 described in Subsection (4)(b) from the county or city that annexes the annexing area.  
128 (b) The notice required in Subsection (4)(a)(ii) shall state:  
129 (i) that the annexation will result in an enactment, a repeal, or a change in the rate of a  
130 tax under this chapter for the annexing area;  
131 (ii) the statutory authority for a tax;  
132 (iii) the effective date of the tax; and  
133 (iv) the rate of the tax.  
134 Section 5. Section **59-29-104** is enacted to read:  
135 **59-29-104. Administration and payment of tax -- Credit -- Rulemaking.**  
136 (1) An operator shall file a return with the commission and pay the tax imposed under  
137 this chapter:  
138 (a) quarterly on or before the last day of the month immediately following the last day  
139 of the previous calendar quarter if:  
140 (i) the operator is required to file a quarterly sales and use tax return with the  
141 commission under Section [59-12-107](#); or  
142 (ii) the operator is not required to file a sales and use tax return with the commission  
143 under Chapter 12, Sales and Use Tax Act; or  
144 (b) monthly on or before the last day of the month immediately following the last day  
145 of the previous calendar month if the operator is required to file a monthly sales and use tax  
146 return with the commission under Section [59-12-108](#).  
147 (2) On the tax return described in Subsection (1), the operator shall indicate the amount  
148 of taxable sand and gravel that is extracted from each local entity that imposes a tax under this  
149 chapter.  
150 (3) (a) An operator that is required to file a quarterly return described under Subsection  
151 (1)(a) may claim on the return a nonrefundable tax credit of \$600 against the amount of tax for

152 which the operator is liable to pay under this chapter for the quarter.

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

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

158 (5) (a) Subject to Subsection (5)(b), the commission shall distribute to each local entity  
159 the amount of tax collected under this chapter on sand and gravel that is extracted from an  
160 extraction site located within the local entity.

161 (b) The commission shall retain and deposit an administrative charge in accordance  
162 with Section 59-1-306 from the revenue the commission collects from a tax under this chapter.

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

164 (7) The commission may make administrative rules in accordance with Title 63G,  
165 Chapter 3, Utah Administrative Rulemaking Act, as necessary to enforce and administer the  
166 provisions of this chapter.

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

168 **59-29-105. Records.**

169 (1) An operator shall maintain records, statements, books, or accounts necessary to  
170 determine the amount of tax for which the operator is liable to pay under this chapter.

171 (2) The commission may require an operator, by notice served upon the person, to  
172 make or keep the records, statements, books, or accounts described in Subsection (1) in a  
173 manner in which the commission considers sufficient to show the amount of tax for which the  
174 operator is liable to pay under this chapter.

175 (3) After notice by the commission, the operator shall open the records, statements,  
176 books, or accounts specified in this section for examination by the commission or an  
177 authorized agent of the commission.

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

179 **59-29-106. Penalties and interest.**

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

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

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

183 Section 8. **Effective date.**

184 This bill takes effect on January 1, 2019.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**