

Senator Lyle W. Hillyard proposes to substitute the following bill:

**SALES AND USE TAX - BOTANICAL, CULTURAL,
RECREATIONAL, AND ZOOLOGICAL
ORGANIZATIONS OR FACILITIES AMENDMENTS**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

Ron Allen

Mike Dmitrich

John L. Valentine

This act modifies the Sales and Use Tax Act to allow a city or town to impose a tax beginning on or after January 1, 2003 for the support of recreational and zoological facilities and botanical, cultural, and zoological organizations if the county in which the city or town is located does not impose a similar tax. The act indicates the purpose of the tax and provides definitions. The act provides for an opinion vote, for the imposition of the tax, and for notification to the State Tax Commission of changes in the imposition of the tax. This act addresses the distribution of the city or town tax and the distribution of the similar county tax. This act has a July 1, 2001 effective date.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-12-703 (Effective 07/01/01), as last amended by Chapters 253 and 319, Laws of Utah 2000

59-12-704, as last amended by Chapter 202, Laws of Utah 2000

ENACTS:

59-12-1401, Utah Code Annotated 1953

59-12-1402, Utah Code Annotated 1953

59-12-1403, Utah Code Annotated 1953



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

26 Section 1. Section **59-12-703 (Effective 07/01/01)** is amended to read:

27 **59-12-703 (Effective 07/01/01). Opinion question election -- Imposition of tax -- Uses**
28 **of tax monies.**

29 (1) (a) (i) Except as provided in Subsection (1)(a)(ii), a county legislative body may~~[-by~~
30 ~~majority vote of all members,]~~ submit an opinion question to the residents of that county, by
31 majority vote of all members of the legislative body, so that each resident of the county has an
32 opportunity to express the resident's opinion on the imposition of a local sales and use tax of [~~1/10~~
33 ~~of 1%~~] .1% on the transactions described in Subsection 59-12-103(1), to fund recreational and
34 zoological facilities and botanical, cultural, and zoological organizations in that county.

35 (ii) Notwithstanding Subsection (1)(a)(i), a county legislative body may not impose a tax
36 under this section on:

37 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses are
38 exempt from taxation under Section 59-12-104; and

39 (B) any amounts paid or charged by a vendor that collects a tax under Subsection
40 59-12-107(1)(b).

41 (b) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah
42 Municipal Bond Act.

43 (2) If the county legislative body determines that a majority of the [~~qualified electors]~~
44 county's registered voters voting on the [~~opinion question has assented to]~~ imposition of the tax
45 have voted in favor of the imposition of [~~a local sales and use]~~ the tax as prescribed in Subsection
46 (1)(a), the county legislative body may~~[-;~~ impose the tax by a majority vote of all members~~[-;~~
47 impose such a tax.] of the legislative body on the transactions:

48 (a) described in Subsection (1); and

49 (b) within the county, including the cities and towns located in the county.

50 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
51 financing:

52 (a) recreational and zoological facilities within the county or a city or town located in the
53 county; and

54 (b) ongoing operating expenses of botanical, cultural, and zoological organizations within
55 the county.

56 (4) Taxes imposed under this part shall be:

57 (a) levied at the same time and collected in the same manner as provided in [~~Title 59,~~
58 ~~Chapter 12,~~] Part 2, Local Sales and Use Tax Act, except that the collection and distribution of the
59 tax revenue is not subject to Subsection 59-12-205(2); and

60 (b) levied for a period of ten years and may be reauthorized at the end of the ten-year
61 period in accordance with this section.

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

63 (i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation
64 to County.

65 (ii) "Annexing area" means an area that is annexed into a county.

66 (b) (i) If, on or after May 1, 2000, a county enacts or repeals a tax or changes the rate of
67 a tax under this part, the enactment, repeal, or change shall take effect:

68 (A) on the first day of a calendar quarter; and

69 (B) after a 75-day period beginning on the date the commission receives notice meeting
70 the requirements of Subsection (5)(b)(ii) from the county.

71 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

72 (A) that the county will enact or repeal a tax or change the rate of a tax under this part;

73 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

74 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

75 (D) if the county enacts the tax or changes the rate of the tax described in Subsection
76 (5)(b)(ii)(A), the new rate of the tax.

77 (c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will result
78 in a change in the rate of a tax under this part for an annexing area, the change shall take effect:

79 (A) on the first day of a calendar quarter; and

80 (B) after a 75-day period beginning on the date the commission receives notice meeting
81 the requirements of Subsection (5)(c)(ii) from the county that annexes the annexing area.

82 (ii) The notice described in Subsection (5)(c)(i)(B) shall state:

83 (A) that the annexation described in Subsection (5)(c)(i) will result in a change in the rate
84 of a tax under this part for the annexing area;

85 (B) the statutory authority for the tax described in Subsection (5)(c)(ii)(A);

86 (C) the effective date of the tax described in Subsection (5)(c)(ii)(A); and

87 (D) the new rate of the tax described in Subsection (5)(c)(ii)(A).

88 Section 2. Section **59-12-704** is amended to read:

89 **59-12-704. Distribution of revenues -- Advisory board creation -- Determining**
90 **operating expenses.**

91 (1) Except as provided in Subsections (3)(b) and (5), and subject to the requirements of
92 this section, any revenues collected by a county of the first class under this part shall be distributed
93 annually by the county legislative body to support recreational and zoological facilities and
94 botanical, cultural, and zoological organizations within that first class county as follows:

95 (a) 30% of the revenue collected by the county under this section shall be distributed by
96 the county legislative body to support recreational facilities located within the county;

97 (b) (i) 12.5% of the revenue collected by the county under this section shall be distributed
98 by the county legislative body to support zoological facilities and organizations located within the
99 county; and

100 (ii) the county legislative body shall determine how the monies shall be distributed among
101 the zoological organizations;

102 (c) (i) 52.5% of the revenue collected by the county under this section shall be distributed
103 to botanical and cultural organizations with average annual operating expenses of more than
104 \$250,000 as determined under Subsection (3);

105 (ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the monies
106 described in Subsection (1)(c)(i) among the organizations and in proportion to their average annual
107 operating expenses as determined under Subsection (3); and

108 (iii) the amount distributed to any organization described in Subsection (1)(c)(i) may not
109 exceed 35% of the organization's budget; and

110 (d) (i) 5% of the revenue collected by the county under this section shall be distributed to
111 botanical and cultural organizations with average annual operating expenses of less than \$250,000
112 as determined under Subsection (3); and

113 (ii) the county legislative body shall determine how the monies shall be distributed among
114 the organizations described in Subsection (1)(d)(i).

115 (2)(a) The county legislative body of each county of the first class shall create an advisory
116 board to advise the county legislative body on disbursement of funds to botanical and cultural
117 organizations under Subsection (1)(c)(i).

118 (b) (i) The advisory board under Subsection (2)(a) shall consist of seven members
119 appointed by the county legislative body.

120 (ii) Two of the seven members of the advisory board under Subsection (2)(a) shall be
121 appointed from the Utah Arts Council.

122 (3) (a) Except as provided in Subsection (3)(b), to be eligible to receive monies collected
123 by the county under this part, a botanical, cultural, and zoological organization located within a
124 county of the first class shall, every three years:

125 (i) calculate their average annual expenses based upon audited expenses for three
126 preceding fiscal years; and

127 (ii) submit to the appropriate county legislative body:

128 (A) a verified audit of annual expenses for each of those three preceding fiscal years; and

129 (B) the average annual expenses as calculated under Subsection (3)(a)(i).

130 (b) Notwithstanding Subsection (3)(a), the county legislative body may waive the expense
131 reporting requirements under Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

132 (4) When calculating average annual expenses as described in Subsection (3), each
133 botanical, cultural, and zoological organization shall use the same three-year fiscal period as
134 determined by the county legislative body.

135 (5) (a) By July 1 of each year, the county legislative body of a first class county may index
136 the threshold amount in Subsections (1)(c) and (d).

137 (b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.

138 (6) (a) Beginning on July 1, ~~[2000]~~ 2001, in a county except for a county of the first class,
139 the county legislative body shall by ordinance provide for the distribution of ~~[100%]~~ the entire
140 amount of of the revenues generated by the tax imposed by this section as ~~[follows:]~~ provided in
141 this Subsection (6).

142 ~~[(a) the county legislative body shall in the ordinance providing for the distribution of the~~
143 ~~revenues generated by a tax imposed by this section specify a percentage of revenues:]~~

144 ~~[(i) that is not less than 30% but that does not exceed 45%; and]~~

145 ~~[(ii) to be distributed to support recreational facilities within the county; and]~~

146 ~~[(b) after specifying the percentage of revenues to be distributed to support recreational~~
147 ~~facilities under Subsection (6)(a), the county legislative body shall provide in the ordinance~~
148 ~~providing for the distribution of the revenues generated by a tax imposed by this section that the~~

149 remainder of the revenues shall be distributed to support the following:]

150 [(i) one or more botanical organizations;]

151 [(ii) one or more cultural organizations;]

152 [(iii) one or more zoological organizations;]

153 [(iv) one or more zoological facilities; or]

154 [(v) a combination of Subsections (6)(b)(i) through (iv).]

155 (b) Pursuant to an interlocal agreement established in accordance with Title 11, Chapter

156 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute to a city,

157 town, or political subdivision within the county revenues generated by a tax under § [:

158 ~~—— (i) § this part § [;] .~~

159 ~~[(ii) Part 14, City or Town Option Funding for Botanical, Cultural, Recreational, and~~

160 ~~Zoological Organizations or Facilities; or~~

161 ~~—— (iii) both this part and Part 14.] §~~

162 (c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or more

163 organizations or facilities defined in Section 59-12-702 regardless of whether the revenues are

164 distributed:

165 (i) directly by the county described in Subsection (6)(a) to be used for an organization or

166 facility defined in Section 59-12-702; or

167 (ii) in accordance with an interlocal agreement described in Subsection (6)(b).

168 (7) The commission may retain an amount not to exceed 1-1/2% of the [county option

169 funding] tax collected under this part for the cost of administering this part.

170 Section 3. Section 59-12-1401 is enacted to read:

171 **Part 14. City or Town Option Funding for Botanical, Cultural, Recreational, and**

172 **Zoological Organizations or Facilities**

173 **59-12-1401. Purpose statement -- Definitions -- Scope of part.**

174 (1) The purpose of the tax imposed by this part is the same for cities and towns as is stated

175 in Section 59-12-701 for counties.

176 (2) The definitions of Section 59-12-702 are incorporated into this part.

177 (3) This part applies only to a city or town that is located within a county of the third,

178 fourth, fifth, or sixth class as designated in Section 17-50-501.

179 Section 4. Section 59-12-1402 is enacted to read:

180 59-12-1402. Opinion question election -- Imposition of tax -- Uses of tax monies.

181 (1) (a) (i) Except as provided in Subsection (1)(a)(ii) **§ AND SUBJECT TO SUBSECTION (6) §**
181a , beginning on January 1, 2003, a city

182 or town legislative body subject to this part may submit an opinion question to the residents of that
183 city or town, by majority vote of all members of the legislative body, so that each resident of the
184 city or town has an opportunity to express the resident's opinion on the imposition of a local sales
185 and use tax of .1% on the transactions described in Subsection 59-12-103(1), to fund recreational
186 and zoological facilities and botanical, cultural, and zoological organizations in that city or town.

187 (ii) Notwithstanding Subsection (1)(a)(i), a city or town legislative body may not impose
188 a tax under this section:

189 (A) if the county in which the city or town is located imposes a tax under Part 7, County
190 Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

191 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and uses
192 are exempt from taxation under Section 59-12-104; and

193 (C) on any amounts paid or charged by a vendor that collects a tax under Subsection
194 59-12-107(1)(b).

195 (b) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah
196 Municipal Bond Act § , EXCEPT AS PROVIDED IN SUBSECTION (6) § .

197 (2) If the city or town legislative body determines that a majority of the city's or town's
198 registered voters voting on the imposition of the tax have voted in favor of the imposition of the
199 tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax by a
200 majority vote of all members of the legislative body.

201 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
202 financing:

203 (a) recreational and zoological facilities within the city or town; and

204 (b) ongoing operating expenses of botanical, cultural, and zoological organizations within
205 the city or town.

206 (4) Taxes imposed under this part shall be:

207 (a) levied at the same time and collected in the same manner as provided in Part 2, Local
208 Sales and Use Tax Act, except that the collection and distribution of the tax revenue is not subject
209 to Subsection 59-12-205(2); and

210 (b) (i) levied for a period of five years; and

211 (ii) may be reauthorized at the end of the five-year period in accordance with this section.

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

213 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4,
214 Annexation.

215 (ii) "Annexing area" means an area that is annexed into a city or town.

216 (b) (i) If, on or after January 1, 2003, a city or town enacts or repeals a tax or changes the
217 rate of a tax under this part, the enactment, repeal, or change shall take effect:

218 (A) on the first day of a calendar quarter; and

219 (B) after a 75-day period beginning on the date the commission receives notice meeting
220 the requirements of Subsection (5)(b)(ii) from the city or town.

221 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:

222 (A) that the city or town will enact or repeal a tax or change the rate of a tax under this
223 part;

224 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);

225 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and

226 (D) if the city or town enacts the tax or changes the rate of the tax described in Subsection
227 (5)(b)(ii)(A), the new rate of the tax.

228 (c) (i) If, for an annexation that occurs on or after January 1, 2003, the annexation will
229 result in a change in the rate of a tax under this part for an annexing area, the change shall take
230 effect:

231 (A) on the first day of a calendar quarter; and

232 (B) after a 75-day period beginning on the date the commission receives notice meeting
233 the requirements of Subsection (5)(c)(ii) from the city or town that annexes the annexing area.

234 (ii) The notice described in Subsection (5)(c)(i)(B) shall state:

235 (A) that the annexation described in Subsection (5)(c)(i) will result in a change in the rate
236 of a tax under this part for the annexing area;

237 (B) the statutory authority for the tax described in Subsection (5)(c)(ii)(A);

238 (C) the effective date of the tax described in Subsection (5)(c)(ii)(A); and

239 (D) the new rate of the tax described in Subsection (5)(c)(ii)(A).

239a **§ (6)(a) BEFORE A CITY OR TOWN LEGISLATIVE BODY SUBMITS AN OPINION QUESTION TO THE**
239b **RESIDENTS OF THE CITY OR TOWN UNDER SUBSECTION (1)(a)(i), THE CITY OR TOWN**
239c **LEGISLATIVE BODY SHALL:**

239d **(i) SUBMIT TO THE COUNTY LEGISLATIVE BODY IN WHICH THE CITY OR TOWN IS LOCATED**
239e **A WRITTEN NOTICE OF THE INTENT TO SUBMIT THE OPINION QUESTION TO THE RESIDENTS OF**
239f **THE CITY OR TOWN; AND §**

239g § (ii) RECEIVE FROM THE COUNTY LEGISLATIVE BODY:
 239h (A) A WRITTEN RESOLUTION PASSED BY THE COUNTY LEGISLATIVE BODY STATING THAT
 239i THE COUNTY LEGISLATIVE BODY IS NOT SEEKING TO IMPOSE A TAX UNDER PART 7, COUNTY
 239j OPTION FUNDING FOR BOTANICAL, CULTURAL, RECREATIONAL, AND ZOOLOGICAL
 239k ORGANIZATIONS AND FACILITIES; OR
 239l (B) A WRITTEN STATEMENT THAT IN ACCORDANCE WITH SUBSECTION (6)(b) THE RESULTS
 239m OF A COUNTY OPINION QUESTION SUBMITTED TO THE RESIDENTS OF THE COUNTY UNDER PART
 239n 7, COUNTY OPTION FUNDING FOR BOTANICAL, CULTURAL, RECREATIONAL, AND ZOOLOGICAL
 239o ORGANIZATIONS AND FACILITIES, PERMIT THE CITY OR TOWN LEGISLATIVE BODY TO SUBMIT
 239p THE OPINION QUESTION TO THE RESIDENTS OF THE CITY OR TOWN IN ACCORDANCE WITH THIS
 239q PART.
 239r (b)(i) WITHIN 60 DAYS AFTER THE DAY THE COUNTY LEGISLATIVE BODY RECEIVES FROM A
 239s CITY OR TOWN LEGISLATIVE BODY DESCRIBED IN SUBSECTION (6)(a) THE NOTICE OF THE INTENT
 239t TO SUBMIT AN OPINION QUESTION TO THE RESIDENTS OF THE CITY OR TOWN, THE COUNTY
 239u LEGISLATIVE BODY SHALL PROVIDE THE CITY OR TOWN LEGISLATIVE BODY:
 239v (A) THE WRITTEN RESOLUTION DESCRIBED IN SUBSECTION (6)(a)(ii)(A); OR
 239w (B) WRITTEN NOTICE THAT THE COUNTY LEGISLATIVE BODY WILL SUBMIT AN OPINION
 239x QUESTION TO THE RESIDENTS OF THE COUNTY UNDER PART 7, COUNTY OPTION FUNDING FOR
 239y BOTANICAL, CULTURAL, RECREATIONAL, AND ZOOLOGICAL ORGANIZATIONS AND FACILITIES,
 239z FOR THE COUNTY TO IMPOSE A TAX UNDER THAT PART.
 239aa (ii) IF THE COUNTY LEGISLATIVE BODY PROVIDES THE CITY OR TOWN LEGISLATIVE BODY
 239ab THE WRITTEN NOTICE THAT THE COUNTY LEGISLATIVE BODY WILL SUBMIT AN OPINION
 239ac QUESTION AS PROVIDED IN SUBSECTION (6)(b)(i)(B), THE COUNTY LEGISLATIVE BODY SHALL
 239ad SUBMIT THE OPINION QUESTION BY NO LATER THAN, FROM THE DATE THE COUNTY LEGISLATIVE
 239ae BODY SENDS THE WRITTEN NOTICE, THE LATER OF:
 239af (A) A 12-month PERIOD;
 239ag (B) THE NEXT REGULAR PRIMARY ELECTION; OR
 239ah (C) THE NEXT REGULAR GENERAL ELECTION.
 239ai (iii) WITHIN 30 DAYS OF THE DATE OF THE CANVASS OF THE ELECTION AT WHICH THE
 239aj OPINION QUESTION UNDER SUBSECTION (6)(b)(ii) IS VOTED ON, THE COUNTY LEGISLATIVE BODY
 239ak SHALL PROVIDE THE CITY OR TOWN LEGISLATIVE BODY DESCRIBED IN SUBSECTION (6)(a)
 239al WRITTEN RESULTS OF THE OPINION QUESTION SUBMITTED BY THE COUNTY LEGISLATIVE BODY
 239am UNDER PART 7, COUNTY OPTION FUNDING FOR BOTANICAL, CULTURAL, RECREATION, AND
 239an ZOOLOGICAL ORGANIZATIONS AND FACILITIES, INDICATING THAT:
 239ao (A)(I) THE CITY OR TOWN LEGISLATIVE BODY MAY NOT IMPOSE A TAX UNDER THIS PART
 239ap BECAUSE A MAJORITY OF THE COUNTY'S REGISTERED VOTERS VOTED IN FAVOR OF THE
 239aq COUNTY IMPOSING THE TAX AND THE COUNTY LEGISLATIVE BODY BY A MAJORITY VOTE
 239ar APPROVED THE IMPOSITION OF THE TAX; OR
 239as (II) FOR AT LEAST 12 MONTHS FROM THE DATE THE WRITTEN RESULTS ARE SUBMITTED
 239at TO THE CITY OR TOWN LEGISLATIVE BODY, THE CITY OR TOWN LEGISLATIVE BODY MAY NOT
 239au SUBMIT TO THE COUNTY LEGISLATIVE BODY A WRITTEN NOTICE OF THE INTENT TO SUBMIT §

239av § AN OPINION QUESTION UNDER THIS PART BECAUSE A MAJORITY OF THE COUNTY'S REGISTERED
239aw VOTERS VOTED AGAINST THE COUNTY IMPOSING THE TAX AND THE MAJORITY OF THE
239ax REGISTERED VOTERS WHO ARE RESIDENTS OF THE CITY OR TOWN DESCRIBED IN SUBSECTION
239ay (6)(a) VOTED AGAINST THE IMPOSITION OF THE COUNTY TAX; OR
239az (B) THE CITY OR TOWN LEGISLATIVE BODY MAY SUBMIT THE OPINION QUESTION TO THE
239ba RESIDENTS OF THE CITY OR TOWN IN ACCORDANCE WITH THIS PART BECAUSE ALTHOUGH A
239bb MAJORITY OF THE COUNTY'S REGISTERED VOTERS VOTED AGAINST THE COUNTY IMPOSING THE
239bc TAX, THE MAJORITY OF THE REGISTERED VOTERS WHO ARE RESIDENTS OF THE CITY OR TOWN
239bd VOTED FOR THE IMPOSITION OF THE COUNTY TAX.
239be (c) NOTWITHSTANDING (6)(b), AT ANY TIME A COUNTY LEGISLATIVE BODY MAY PROVIDE A
239bf CITY OR TOWN LEGISLATIVE BODY DESCRIBED IN SUBSECTION (6)(a) A WRITTEN RESOLUTION
239bg PASSED BY THE COUNTY LEGISLATIVE BODY STATING THAT THE COUNTY LEGISLATIVE BODY IS
239bh NOT SEEKING TO IMPOSE A TAX UNDER PART 7, COUNTY OPTION FUNDING FOR BOTANICAL,
239bi CULTURAL, RECREATIONAL, AND ZOOLOGICAL ORGANIZATIONS AND FACILITIES, WHICH
239bj PERMITS THE CITY OR TOWN LEGISLATIVE BODY TO SUBMIT UNDER SUBSECTION (1)(a)(i) AN
239bk OPINION QUESTION TO THE CITY'S OR TOWN'S RESIDENTS. §

240 Section 5. Section **59-12-1403** is enacted to read:

241 **59-12-1403. Distribution of revenues -- Administrative costs.**

242 (1) (a) The city or town legislative body shall by ordinance provide for the distribution of
243 the entire amount of the revenues generated by the tax imposed by this part in accordance with this
244 section.

245 (b) A city or town may participate in an interlocal agreement provided for under Section
246 59-12-704 § AND DISTRIBUTE THE REVENUES GENERATED BY THE TAX IMPOSED BY THIS PART
246a TO PARTICIPANTS IN THE INTERLOCAL AGREEMENT. §

247 (c) The revenues generated by the tax shall be used for one or more organizations or
248 facilities defined in Section 59-12-702.

249 (2) The commission may retain an amount not to exceed 1-1/2% of the tax collected under
250 this part for the cost of administering this part.

251 Section 6. **Effective date.**

252 This act takes effect on July 1, 2001.