

**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 provide for tax by a city or town for the support of recreational and zoological facilities and botanical, cultural, and zoological organizations. 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 tax. This act has a July 1, 2001 effective date.

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

AMENDS:

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

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

Section 1. Section **59-12-704** is amended to read:

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

(1) Except as provided in Subsections (3)(b) and (5), and subject to the requirements of this section, any revenues collected by a county of the first class under this part shall be distributed annually by the county legislative body to support recreational and zoological facilities and



28 botanical, cultural, and zoological organizations within that first class county as follows:

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

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

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

36 (c) (i) 52.5% of the revenue collected by the county under this section shall be distributed
37 to botanical and cultural organizations with average annual operating expenses of more than
38 \$250,000 as determined under Subsection (3);

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

80 ~~[(b) after specifying the percentage of revenues to be distributed to support recreational~~
81 ~~facilities under Subsection (6)(a), the county legislative body shall provide in the ordinance~~
82 ~~providing for the distribution of the revenues generated by a tax imposed by this section that the~~
83 ~~remainder of the revenues shall be distributed to support the following:]~~

84 ~~[(i) one or more botanical organizations;]~~

85 ~~[(ii) one or more cultural organizations;]~~

86 ~~[(iii) one or more zoological organizations;]~~

87 ~~[(iv) one or more zoological facilities; or]~~

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

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

90 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute to a city,
91 town, or political subdivision within the county revenues generated by a tax under:

92 (i) this part;

93 (ii) Part 14, City or Town Option for Funding for Botanical, Cultural, Recreational, and
94 Zoological Organizations or Facilities; or

95 (iii) both this part and Part 14.

96 (c) Subject to Subsection (6)(d), the revenues distributed under Subsection (6)(a) or (b)
97 shall be used for one or more organizations or facilities defined in Section 59-12-702 regardless
98 of whether the revenues are distributed:

99 (i) directly by the county described in Subsection (6)(a) to be used for an organization or
100 facility defined in Section 59-12-702; or

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

102 (d) Notwithstanding Subsection (6)(c), for a calendar year at least 6% of all of the revenues
103 described in Subsection (6)(c) shall be distributed to zoological or botanical organizations or
104 facilities.

105 (7) The commission may retain an amount not to exceed 1-1/2% of the [~~county option~~
106 ~~funding~~] tax collected under this part for the cost of administering this part.

107 Section 2. Section **59-12-1401** is enacted to read:

108 **Part 14. City or Town Option Funding for Botanical, Cultural, Recreational, and**
109 **Zoological Organizations or Facilities**

110 **59-12-1401. Purpose statement -- Definitions -- Scope of part.**

111 (1) The purpose of the tax imposed by this part is the same for cities and towns as is stated
112 in Section 59-12-701 for counties.

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

114 (3) This part applies only to a city or town that is located within a county of the third,
115 fourth, fifth, or sixth class as designated in Section 17-50-501.

116 Section 3. Section **59-12-1402** is enacted to read:

117 **59-12-1402. Opinion question election -- Imposition of tax -- Uses of tax monies.**

118 (1) (a) (i) Except as provided in Subsection (1)(a)(ii), a city or town legislative body
119 subject to this part may submit an opinion question to the residents of that city or town, by majority
120 vote of all members of the legislative body, so that each resident of the city or town has an

121 opportunity to express the resident's opinion on the imposition of a local sales and use tax of .1%
122 on the transactions described in Subsection 59-12-103(1), to fund recreational and zoological
123 facilities and botanical, cultural, and zoological organizations in that city or town.

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

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

128 (B) any amounts paid or charged by a vendor that collects a tax under Subsection
129 59-12-107(1)(b).

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

132 (2) If the city or town legislative body determines that a majority of the taxing entity's
133 registered voters voting on the imposition of the tax have voted in favor of the imposition of the
134 tax as prescribed in Subsection (1)(a), the city or town legislative body may impose the tax by a
135 majority vote of all members of the legislative body.

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

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

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

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

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

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

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

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

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

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

151 (b) (i) If, on or after July 1, 2001, a city or town enacts or repeals a tax or changes the rate

152 of a tax under this part, the enactment, repeal, or change shall take effect:

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

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

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

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

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

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

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

163 (c) (i) If, for an annexation that occurs on or after July 1, 2001, the annexation will result
164 in a change in the rate of a tax under this part for an annexing area, the change shall take effect:

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

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

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

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

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

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

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

174 Section 4. Section **59-12-1403** is enacted to read:

175 **59-12-1403. Distribution of revenues -- Administrative costs.**

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

179 (b) A city or town may participate in an interlocal agreement provided for under Section
180 59-12-704.

181 (c) Subject to Subsection (6)(d), the revenues generated by the tax shall be used for one
182 or more organizations or facilities defined in Section 59-12-702.

183 (d) Notwithstanding Subsection (6)(c), for a calendar year at least 6% of all of the revenues
184 generated by a the tax under this part shall be distributed to zoological or botanical organizations
185 or facilities.

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

188 Section 5. **Effective date.**

189 This act takes effect on July 1, 2001.

Legislative Review Note
as of 2-15-01 1:22 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel