

**AMENDMENTS TO CITY OR TOWN SALES AND USE TAX  
FOR BOTANICAL, CULTURAL, RECREATIONAL, AND  
ZOOLOGICAL ORGANIZATIONS OR FACILITIES**

2009 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kory M. Holdaway**

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

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**LONG TITLE**

**General Description:**

This bill amends the City or Town Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities part relating to the imposition of a city or town option sales and use tax to finance botanical, cultural, recreational, and zoological organizations or facilities.

**Highlighted Provisions:**

This bill:

- ▶ repeals language relating to a purpose statement;
- ▶ repeals language limiting the tax to a city or town located within a county of the second, third, fourth, fifth, or sixth class so that a city or town located within any county may impose the tax;
- ▶ provides that a city or town may impose the tax regardless of whether the county in which the city or town is located imposes the county option sales and use tax under Title 59, Chapter 12, Part 7, County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities;

~~H→ [→ repeals requirements that before a city or town may impose the tax the city or town: provide certain written information to the county in which the city or town is located; and~~



28 ~~receive a written statement or written resolution from the county in which the~~  
29 ~~city or town is located;]~~ ←H

- 30 ▶ repeals obsolete language; and
- 31 ▶ makes technical changes.

32 **Monies Appropriated in this Bill:**

33 None

34 **Other Special Clauses:**

35 None

36 **Utah Code Sections Affected:**

37 AMENDS:

38 **59-12-1401**, as last amended by Laws of Utah 2004, Chapter 317

39 **59-12-1402**, as last amended by Laws of Utah 2008, Chapters 382 and 384

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

42 Section 1. Section **59-12-1401** is amended to read:

43 **59-12-1401. Definitions.**

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

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

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

49 Section 2. Section **59-12-1402** is amended to read:

50 **59-12-1402. Opinion question election -- Base -- Rate -- Imposition of tax -- Uses**  
51 **of tax monies -- Enactment or repeal of tax -- Effective date.**

52 (1) (a) (i) H→ [f] **Subject to Subsection (6), [f] ←H** [ ~~beginning on January 1, 2003, a~~

52a A city or town

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

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

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

64 [~~(B)~~ (A) on the sales and uses described in Section 59-12-104 to the extent the sales  
65 and uses are exempt from taxation under Section 59-12-104; and

66 [~~(C)~~ (B) except as provided in Subsection (1)(c), on amounts paid or charged for food  
67 and food ingredients.

68 (b) For purposes of this Subsection (1), the location of a transaction shall be  
69 determined in accordance with Sections 59-12-211 through 59-12-215.

70 (c) A city or town legislative body imposing a tax under this section shall impose the  
71 tax on amounts paid or charged for food and food ingredients if the food and food ingredients  
72 are sold as part of a bundled transaction attributable to food and food ingredients and tangible  
73 personal property other than food and food ingredients.

74 (d) The election shall be held at a regular general election or a municipal general  
75 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures  
76 outlined in Title 11, Chapter 14, Local Government Bonding Act ~~H~~→ [f] , **except as provided in**  
77 **Subsection (6) [f] ←H** .

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

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

84 (a) recreational and zoological facilities within the city or town or within the  
85 geographic area of entities that are parties to an interlocal agreement, to which the city or town  
86 is a party, providing for recreational or zoological facilities; and

87 (b) ongoing operating expenses of botanical, cultural, and zoological organizations  
88 within the city or town or within the geographic area of entities that are parties to an interlocal  
89 agreement, to which the city or town is a party, providing for the support of botanical, cultural,

90 or zoological organizations.

91 (4) (a) A tax authorized under this part shall be:

92 (i) except as provided in Subsection (4)(b), administered, collected, and enforced in  
93 accordance with:

94 (A) the same procedures used to administer, collect, and enforce the tax under:

95 (I) Part 1, Tax Collection; or

96 (II) Part 2, Local Sales and Use Tax Act; and

97 (B) Chapter 1, General Taxation Policies; and

98 (ii) (A) levied for a period of eight years; and

99 (B) may be reauthorized at the end of the eight-year period in accordance with this  
100 section.

101 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to  
102 Subsections 59-12-205(2) through (6).

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

104 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part  
105 4, Annexation.

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

107 (b) (i) Except as provided in Subsection (5)(c) or (d), if ~~on or after July 1, 2004,~~ a  
108 city or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:

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

110 (B) after a 90-day period beginning on the date the commission receives notice meeting  
111 the requirements of Subsection (5)(b)(ii) from the city or town.

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

113 (A) that the city or town will enact or repeal a tax under this part;

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

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

116 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of  
117 the tax.

118 (c) (i) The enactment of a tax shall take effect on the first day of the first billing period:

119 (A) that begins after the effective date of the enactment of the tax; and

120 (B) if the billing period for the transaction begins before the effective date of the

121 enactment of the tax under this section.

122 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

123 (A) that began before the effective date of the repeal of the tax; and

124 (B) if the billing period for the transaction begins before the effective date of the repeal  
125 of the tax imposed under this section.

126 (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
127 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
128 Subsection (5)(b)(i) takes effect:

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

130 (B) beginning 60 days after the effective date of the enactment or repeal under  
131 Subsection (5)(b)(i).

132 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
133 commission may by rule define the term "catalogue sale."

134 (e) (i) Except as provided in Subsection (5)(f) or (g), if ~~for an annexation that occurs~~  
135 ~~on or after July 1, 2004, the~~ an annexation will result in the enactment or repeal of a tax under  
136 this part for an annexing area, the enactment or repeal shall take effect:

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

138 (B) after a 90-day period beginning on the date the commission receives notice meeting  
139 the requirements of Subsection (5)(e)(ii) from the city or town that annexes the annexing area.

140 (ii) The notice described in Subsection (5)(e)(i)(B) shall state:

141 (A) that the annexation described in Subsection (5)(e)(i) will result in an enactment or  
142 repeal a tax under this part for the annexing area;

143 (B) the statutory authority for the tax described in Subsection (5)(e)(ii)(A);

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

145 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).

146 (f) (i) The enactment of a tax shall take effect on the first day of the first billing period:

147 (A) that begins after the effective date of the enactment of the tax; and

148 (B) if the billing period for the transaction begins before the effective date of the  
149 enactment of the tax under this section.

150 (ii) The repeal of a tax shall take effect on the first day of the last billing period:

151 (A) that began before the effective date of the repeal of the tax; and

152 (B) if the billing period for the transaction begins before the effective date of the repeal  
153 of the tax imposed under this section.

154 (g) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of  
155 sales and use tax rates published in the catalogue, an enactment or repeal of a tax described in  
156 Subsection (5)(e)(i) takes effect:

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

158 (B) beginning 60 days after the effective date of the enactment or repeal under  
159 Subsection (5)(e)(i).

160 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
161 commission may by rule define the term "catalogue sale."

162 **H→ [f] (6) (a) Before a city or town legislative body submits an opinion question to the**  
163 **residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:**

164 (i) **submit to the county legislative body in which the city or town is located a written**  
165 **notice of the intent to submit the opinion question to the residents of the city or town; and**

166 (ii) **receive from the county legislative body:**

167 (A) **a written resolution passed by the county legislative body stating that the county**  
168 **legislative body is not seeking to impose a tax under Part 7, County Option Funding for**  
169 **Botanical, Cultural, Recreational, and Zoological Organizations or Facilities; or**

170 (B) **a written statement that in accordance with Subsection (6)(b) the results of a**  
171 **county opinion question submitted to the residents of the county under Part 7, County Option**  
172 **Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities,**  
173 **permit the city or town legislative body to submit the opinion question to the residents of the**  
174 **city or town in accordance with this part.**

175 (b) (i) **Within 60 days after the day the county legislative body receives from a city or**  
176 **town legislative body described in Subsection (6)(a) the notice of the intent to submit an**  
177 **opinion question to the residents of the city or town, the county legislative body shall provide**  
178 **the city or town legislative body:**

179 (A) **the written resolution described in Subsection (6)(a)(ii)(A); or**

180 (B) **written notice that the county legislative body will submit an opinion question to**  
181 **the residents of the county under Part 7, County Option Funding for Botanical, Cultural,**  
182 **Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under**

183 **Ĥ→ that part.**

184 (ii) If the county legislative body provides the city or town legislative body the written  
185 notice that the county legislative body will submit an opinion question as provided in  
186 Subsection (6)(b)(i)(B), the county legislative body shall submit the opinion question by no  
187 later than, from the date the county legislative body sends the written notice, the later of:

- 188 (A) a 12-month period;
- 189 (B) the next regular primary election; or
- 190 (C) the next regular general election.

191 (iii) Within 30 days of the date of the canvass of the election at which the opinion  
192 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the  
193 city or town legislative body described in Subsection (6)(a) written results of the opinion  
194 question submitted by the county legislative body under Part 7, County Option Funding for  
195 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

196 (A) (I) the city or town legislative body may not impose a tax under this part because a  
197 majority of the county's registered voters voted in favor of the county imposing the tax and the  
198 county legislative body by a majority vote approved the imposition of the tax; or

199 (II) for at least 12 months from the date the written results are submitted to the city or  
200 town legislative body, the city or town legislative body may not submit to the county legislative  
201 body a written notice of the intent to submit an opinion question under this part because a  
202 majority of the county's registered voters voted against the county imposing the tax and the  
203 majority of the registered voters who are residents of the city or town described in Subsection  
204 (6)(a) voted against the imposition of the county tax; or

205 (B) the city or town legislative body may submit the opinion question to the residents  
206 of the city or town in accordance with this part because although a majority of the county's  
207 registered voters voted against the county imposing the tax, the majority of the registered  
207a voters

208 who are residents of the city or town voted for the imposition of the county tax.

209 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may  
210 provide a city or town legislative body described in Subsection (6)(a) a written resolution  
211 passed by the county legislative body stating that the county legislative body is not seeking to  
212 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and  
213 Zoological Organizations or Facilities, which permits the city or town legislative body to ←Ĥ

**214 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents. [H] ←H**

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**Legislative Review Note**  
**as of 2-13-09 4:14 PM**

**Office of Legislative Research and General Counsel**

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**Fiscal Note****H.B. 439 - Amendments to City or Town Sales and Use Tax for Botanical,  
Cultural, Recreational, and Zoological Organizations or Facilities**

2009 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill could increase local revenues by up to \$10,400,000 annually. There will be a corresponding cost to individuals and businesses.

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