

1 **LOCAL OPTION SALES TAX DISTRIBUTION**

2 **AMENDMENTS**

3 2021 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Lincoln Fillmore**

6 House Sponsor: Candice B. Pierucci

7

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions related to county option funding for botanical, cultural,
11 recreational, and zoological organizations or facilities.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ addresses the distribution of revenue generated by a county option sales tax for
15 funding botanical, cultural, recreational, and zoological organizations or facilities

16 by:

17 • amending the eligibility requirements for certain botanical organizations and
18 cultural organizations to receive revenue; and

19 • enacting a requirement that the county legislative body ensure the revenue
20 distribution $\hat{S} \rightarrow$ **to certain botanical organizations and cultural organizations** $\leftarrow \hat{S}$ is reasonably

20a consistent with the population distribution within the

21 county; and

22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill provides a special effective date.

27 **Utah Code Sections Affected:**



28 AMENDS:

29 [59-12-702](#), as last amended by Laws of Utah 2017, Chapter 382

30 [59-12-704](#), as last amended by Laws of Utah 2020, Chapter 419

31

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

33 Section 1. Section **59-12-702** is amended to read:

34 **59-12-702. Definitions.**

35 As used in this part:

36 (1) "Administrative unit" means a division of a private nonprofit organization or
37 institution that:

38 (a) would, if it were a separate entity, be a botanical organization or cultural
39 organization; and

40 (b) consistently maintains books and records separate from those of its parent
41 organization.

42 (2) "Aquarium" means a park or building where a collection of water animals and
43 plants is kept for study, conservation, and public exhibition.

44 (3) "Aviary" means a park or building where a collection of birds is kept for study,
45 conservation, and public exhibition.

46 (4) "Botanical organization" means:

47 (a) a private nonprofit organization or institution having as its primary purpose the
48 advancement and preservation of plant science through horticultural display, botanical
49 research, and community education; or

50 (b) an administrative unit.

51 (5) "Cultural facility" means the same as that term is defined in Section [59-12-602](#).

52 (6) (a) "Cultural organization":

53 (i) means:

54 (A) a private nonprofit organization or institution having as its primary purpose the
55 advancement and preservation of:

56 (I) natural history;

57 (II) art;

58 (III) music;

- 59 (IV) theater;
- 60 (V) dance; or
- 61 (VI) cultural arts, including literature, a motion picture, or storytelling;
- 62 (B) an administrative unit; and
- 63 (ii) includes, for purposes of Subsections 59-12-704(1)(d) and ~~[(6)]~~ (7) only:
- 64 (A) a private nonprofit organization or institution having as its primary purpose the
- 65 advancement and preservation of history; or
- 66 (B) a municipal or county cultural council having as its primary purpose the
- 67 advancement and preservation of:
 - 68 (I) history;
 - 69 (II) natural history;
 - 70 (III) art;
 - 71 (IV) music;
 - 72 (V) theater; or
 - 73 (VI) dance.
- 74 (b) "Cultural organization" does not include:
 - 75 (i) an agency of the state;
 - 76 (ii) except as provided in Subsection (6)(a)(ii)(B), a political subdivision of the state;
 - 77 (iii) an educational institution whose annual revenues are directly derived more than
 - 78 50% from state funds; or
 - 79 (iv) in a county of the first or second class, a radio or television broadcasting network
 - 80 or station, cable communications system, newspaper, or magazine.
- 81 (7) "Institution" means an institution of higher education listed in Subsection
- 82 53B-1-102(1)(a).
- 83 (8) "Recreational facility" means a publicly owned or operated park, campground,
- 84 marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system,
- 85 or other facility used for recreational purposes.
- 86 (9) "Rural radio station" means a nonprofit radio station based in a county of the third,
- 87 fourth, fifth, or sixth class.
- 88 (10) In a county of the first class, "zoological facility" means a public, public-private
- 89 partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway,

90 roadway, office, administration facility, public service facility, educational facility, enclosure,
91 public viewing area, animal barrier, animal housing, animal care facility, and veterinary and
92 hospital facility related to the advancement, exhibition, or preservation of a mammal, bird,
93 reptile, fish, or an amphibian.

94 (11) (a) (i) Except as provided in Subsection (11)(a)(ii), "zoological organization"
95 means a public, public-private partnership, or private nonprofit organization having as its
96 primary purpose the advancement and preservation of zoology.

97 (ii) In a county of the first class, "zoological organization" means a nonprofit
98 organization having as its primary purpose the advancement and exhibition of a mammal, bird,
99 reptile, fish, or an amphibian to an audience of 75,000 or more persons annually.

100 (b) "Zoological organization" does not include an agency of the state, educational
101 institution, radio or television broadcasting network or station, cable communications system,
102 newspaper, or magazine.

103 (12) "Zoological park" means a park or garden where a collection of wild animals is
104 kept for study, conservation, and public exhibition.

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

106 **59-12-704. Distribution of revenues -- Advisory board creation -- Determining**
107 **operating expenses -- Administrative charge.**

108 (1) Except as provided in Subsections [~~(3)~~] (4)(b) and [~~(5)~~] (6), and subject to the
109 requirements of this section, any revenues collected by a county of the first class under this part
110 shall be distributed annually by the county legislative body to support cultural facilities,
111 recreational facilities, and zoological facilities and botanical organizations, cultural
112 organizations, and zoological organizations within that first class county as follows:

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

116 (b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii),
117 16% of the revenue collected by the county under this section shall be distributed by the county
118 legislative body to support no more than three zoological facilities and zoological organizations
119 located within the county, having average annual operating expenses of \$1,500,000 or more as
120 determined under Subsection [~~(3)~~] (4), with:

121 (A) 63.5% of that revenue being distributed to support a zoological organization
122 having as its primary purpose the operation of a zoological park, or a zoological facility that is
123 part of or integrated with a zoological park;

124 (B) 28.25% of that revenue being distributed to support a zoological organization
125 having as its primary purpose the operation of an aquarium, or a zoological facility that is part
126 of or integrated with an aquarium; and

127 (C) 8.25% of that revenue being distributed to support a zoological organization having
128 as its primary purpose the operation of an aviary, or a zoological facility that is part of or
129 integrated with an aviary;

130 (ii) if more than one zoological organization or zoological facility qualifies to receive
131 the money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall
132 distribute the money described in the subsection for which more than one zoological
133 organization or zoological facility qualifies to whichever zoological organization or zoological
134 facility the county legislative body determines is most appropriate, except that a zoological
135 organization or zoological facility may not receive money under more than one subsection
136 under Subsection (1)(b)(i); and

137 (iii) if no zoological organization or zoological facility qualifies to receive money
138 described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the
139 money described in the subsection for which no zoological organization or zoological facility
140 qualifies among the zoological organizations or zoological facilities qualifying for and
141 receiving money under the other subsections in proportion to the zoological organizations' or
142 zoological facilities' average annual operating expenses as determined under Subsection [~~(3)~~
143 (4)];

144 (c) (i) 45% of the revenue collected by the county under this section shall be distributed
145 to no more than 22 botanical organizations and cultural organizations [~~with~~];

146 (A) each of which has average annual operating expenses of more than \$250,000 as
147 determined under Subsection [~~(3)~~ (4); and

148 (B) whose activities impact all or a significant region of the county or state;

149 (ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the
150 money described in Subsection (1)(c)(i) among the botanical organizations and cultural
151 organizations in proportion to their average annual operating expenses as determined under

152 Subsection ~~[(3)]~~ (4); and

153 (iii) the amount distributed to any botanical organization or cultural organization
154 described in Subsection (1)(c)(i) may not exceed 35% of the botanical organization's or cultural
155 organization's operating budget; and

156 (d) (i) 9% of the revenue collected by the county under this section shall be distributed
157 to botanical organizations and cultural organizations throughout the county that do not receive
158 revenue under Subsection (1)(c)(i); and

159 (ii) the county legislative body shall determine how the money shall be distributed
160 among the botanical organizations and cultural organizations described in Subsection (1)(d)(i).

161 (2) In making the distributions described in Subsection (1) ~~Ŝ~~→ ~~[(a), (c), or]~~ ←Ŝ (d), the
161a county

162 legislative body shall ensure that the distribution of revenue is reasonably consistent with the
163 population distribution within the county.

164 ~~[(2)]~~ (3) (a) The county legislative body of each county shall create an advisory board
165 to advise the county legislative body on disbursement of funds to botanical organizations and
166 cultural organizations under Subsection (1)(c)(i).

167 (b) (i) The advisory board under Subsection ~~[(2)]~~ (3)(a) shall consist of seven members
168 appointed by the county legislative body.

169 (ii) In a county of the first class, two of the seven members of the advisory board under
170 Subsection ~~[(2)]~~ (3)(a) shall be appointed by the Division of Arts and Museums created in
171 Section 9-6-201.

172 ~~[(3)]~~ (4) (a) Except as provided in Subsection ~~[(3)]~~ (4)(b), to be eligible to receive
173 money collected by the county under this part, a botanical organization, cultural organization,
174 zoological organization, and zoological facility located within a county of the first class shall,
175 every year:

176 (i) calculate its average annual operating expenses based upon audited operating
177 expenses for three preceding fiscal years; and

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

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

181 (B) the average annual operating expenses as calculated under Subsection ~~[(3)]~~
182 (4)(a)(i).

183 (b) The county legislative body may waive the operating expenses reporting
184 requirements under Subsection [~~(3)~~] (4)(a) for organizations described in Subsection (1)(d)(i).

185 [~~(4)~~] (5) When calculating average annual operating expenses as described in
186 Subsection [~~(3)~~] (4), each botanical organization, cultural organization, and zoological
187 organization shall use the same three-year fiscal period as determined by the county legislative
188 body.

189 [~~(5)~~] (6) (a) By July 1 of each year, the county legislative body of a first class county
190 may index the threshold amount in Subsections (1)(c) and (d).

191 (b) Any change under Subsection [~~(5)~~] (6)(a) shall be rounded off to the nearest \$100.

192 [~~(6)~~] (7) (a) In a county except for a county of the first class, the county legislative
193 body shall by ordinance provide for the distribution of the entire amount of the revenues
194 generated by the tax imposed by this section:

195 (i) as provided in this Subsection [~~(6)~~] (7); and

196 (ii) as stated in the opinion question described in Subsection 59-12-703(1).

197 (b) Pursuant to an interlocal agreement established in accordance with Title 11,
198 Chapter 13, Interlocal Cooperation Act, a county described in Subsection [~~(6)~~] (7)(a) may
199 distribute to a city, town, or political subdivision within the county revenues generated by a tax
200 under this part.

201 (c) The revenues distributed under Subsection [~~(6)~~] (7)(a) or (b) shall be used for one
202 or more organizations or facilities defined in Section 59-12-702 regardless of whether the
203 revenues are distributed:

204 (i) directly by the county described in Subsection [~~(6)~~] (7)(a) to be used for an
205 organization or facility defined in Section 59-12-702; or

206 (ii) in accordance with an interlocal agreement described in Subsection [~~(6)~~] (7)(b).

207 [~~(7)~~] (8) A county legislative body may retain up to 1.5% of the proceeds from a tax
208 under this part for the cost of administering this part.

209 [~~(8)~~] (9) The commission shall retain and deposit an administrative charge in
210 accordance with Section 59-1-306 from the revenues the commission collects from a tax under
211 this part.

212 Section 3. **Effective date.**

213 This bill takes effect on January 1, 2022.