

**Senator Lincoln Fillmore** proposes the following substitute bill:

**COUNTY SALES AND USE TAX AMENDMENTS**

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lincoln Fillmore**

House Sponsor: Jordan D. Teuscher

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**LONG TITLE**

**General Description:**

This bill modifies distribution provisions of the County Option Funding for Botanical, Cultural, Recreational, and Zoological Organizations or Facilities.

**Highlighted Provisions:**

This bill:

- ▶ revises the distribution of 16% of the revenue from the county botanical, cultural, recreational, and zoological organizations or facilities tax in a county of the first class.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**59-12-702**, as last amended by Laws of Utah 2017, Chapter 382

**59-12-704**, as last amended by Laws of Utah 2021, Chapter 396

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



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

27 **59-12-702. Definitions.**

28 As used in this part:

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

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

33 (b) consistently maintains books and records separate from those of ~~[its]~~ the  
34 administrative unit's parent organization.

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

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

39 (4) "Botanical organization" means:

40 (a) a private nonprofit organization or institution having as ~~[its]~~ the private nonprofit  
41 organization's or institution's primary purpose the advancement and preservation of plant  
42 science through horticultural display, botanical research, and community education; or

43 (b) an administrative unit.

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

45 (6) (a) "Cultural organization" means:

46 ~~[(i) means:]~~

47 ~~[(A)]~~ (i) a private nonprofit organization or institution having as ~~[its]~~ the private  
48 nonprofit organization's or institution's primary purpose the advancement and preservation of:

49 ~~[(I)]~~ (A) natural history;

50 ~~[(II)]~~ (B) art;

51 ~~[(III)]~~ (C) music;

52 ~~[(IV)]~~ (D) theater;

53 ~~[(V)]~~ (E) dance; or

54 ~~[(VI)]~~ (F) cultural arts, including literature, a motion picture, or storytelling; and

55 ~~[(B)]~~ (ii) an administrative unit~~[-and]~~.

56 ~~[(i)]~~ (b) "Cultural organization" includes, for purposes of Subsections 59-12-704(1)(d)

57 and ~~[(6)]~~ (10) only:

58 ~~[(A)]~~ (i) a private nonprofit organization or institution having as ~~[(its)]~~ the private  
59 nonprofit organization's or institution's primary purpose the advancement and preservation of  
60 history; or

61 ~~[(B)]~~ (ii) a municipal or county cultural council having as ~~[(its)]~~ the municipal or county  
62 cultural council's primary purpose the advancement and preservation of:

63 ~~[(H)]~~ (A) history;

64 ~~[(H)]~~ (B) natural history;

65 ~~[(H)]~~ (C) art;

66 ~~[(V)]~~ (D) music;

67 ~~[(V)]~~ (E) theater; or

68 ~~[(V)]~~ (F) dance.

69 ~~[(b)]~~ (c) "Cultural organization" does not include:

70 (i) an agency of the state;

71 (ii) except as provided in Subsection ~~[(6)(a)(ii)(B)]~~ (6)(b)(ii), a political subdivision of  
72 the state;

73 (iii) an educational institution ~~[whose annual revenues are]~~ for which annual revenue is  
74 directly derived more than 50% from state funds; or

75 (iv) in a county of the first or second class, a radio or television broadcasting network  
76 or station, cable communications system, newspaper, or magazine.

77 (7) "Institution" means an institution of higher education listed in Subsection  
78 [53B-1-102\(1\)\(a\)](#).

79 (8) "Recreational facility" means a publicly owned or operated park, campground,  
80 marina, dock, golf course, playground, athletic field, gymnasium, swimming pool, trail system,  
81 or other facility used for recreational purposes.

82 (9) "Rural radio station" means a nonprofit radio station based in a county of the third,  
83 fourth, fifth, or sixth class.

84 (10) In a county of the first class, "zoological facility" means a public, public-private  
85 partnership, or private nonprofit building, exhibit, utility and infrastructure, walkway, pathway,  
86 roadway, office, administration facility, public service facility, educational facility, enclosure,  
87 public viewing area, animal barrier, animal housing, animal care facility, and veterinary and

88 hospital facility related to the advancement, exhibition, or preservation of a mammal, bird,  
89 reptile, fish, or an amphibian.

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

93 (ii) In a county of the first class, "zoological organization" means a nonprofit  
94 organization having as ~~[its]~~ nonprofit organization's primary purpose the advancement and  
95 exhibition of a mammal, bird, reptile, fish, or an amphibian to an audience of 75,000 or more  
96 persons annually.

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

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

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

103 **59-12-704. Distribution of revenue -- Advisory board creation -- Determining**  
104 **operating expenses -- Administrative charge.**

105 (1) Except as provided in Subsections ~~[(3)(b)]~~ (7)(b) and ~~[(5)]~~ (9), and subject to the  
106 requirements of this section, ~~[any revenues collected by a county of the first class under this~~  
107 ~~part shall be distributed annually by the county legislative body]~~ the county legislative body of  
108 a county of the first class shall distribute annually any revenue collected under this part to  
109 support cultural facilities, recreational facilities, and zoological facilities and botanical  
110 organizations, cultural organizations, and zoological organizations within that first class county  
111 as follows:

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

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

119 determined under Subsection (3), with:]

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

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

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

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

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

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

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

146 [~~(B) whose activities impact all or a significant region of the county or state;]~~

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

150 Subsection (3); and]

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

154 ~~[(d) (i) 9% of the revenue collected by the county under this section shall be distributed~~  
155 ~~to botanical organizations and cultural organizations that do not receive revenue under~~  
156 ~~Subsection (1)(c)(i) in communities throughout the county; and]~~

157 ~~[(ii) the county legislative body shall determine how the money shall be distributed~~  
158 ~~among the botanical organizations and cultural organizations described in Subsection (1)(d)(i).]~~

159 (a) 30% of the revenue to support cultural facilities and recreational facilities located  
160 within the county;

161 (b) 16% of the revenue to support zoological facilities and zoological organizations  
162 located within the county as provided in Subsection (2);

163 (c) as provided in Subsection (5), 45% of the revenue to support no more than 22  
164 botanical organizations and cultural organizations:

165 (i) each of which has average annual operating expenses of more than \$250,000 as  
166 determined under Subsection (7); and

167 (ii) whose activities impact all or a significant region of the county or state; and

168 (d) 9% of the revenue to botanical organizations and cultural organizations that do not  
169 receive revenue under Subsection (1)(c) in communities throughout the county as determined  
170 by the county legislative body.

171 (2) (a) The distribution described in Subsection (1)(b) shall support no more than three  
172 zoological facilities and zoological organizations located within the county and having average  
173 annual operating expenses of \$1,500,000 or more as determined under Subsection (7).

174 (b) For the calendar years that begin on January 1, 2025 and January 1, 2026, the  
175 county shall distribute the 16% of the revenue as follows:

176 (i) 8.25% of the revenue to support a zoological organization having as the zoological  
177 organization's primary purpose the operation of an aviary, or a zoological facility that is part of  
178 or integrated with an aviary;

179 (ii) an amount equal to the amount distributed during the previous calendar year to  
180 support a zoological organization having as the zoological organization's primary purpose the

181 operation of a zoological park, or a zoological facility that is part of or integrated with a  
182 zoological park; and

183 (iii) the remaining amount to a zoological organization having as the zoological  
184 organization's primary purpose the operation of an aquarium, or a zoological facility that is part  
185 of or integrated with an aquarium.

186 (c) For a calendar year that begins on or after January 1, 2027, the county shall provide  
187 by ordinance for the distribution of the 16% of revenue to no more than three zoological  
188 facilities and zoological organizations located within the county and having average annual  
189 operating expenses of \$1,500,000 or more as determined under Subsection (7).

190 (3) If more than one zoological organization or zoological facility qualifies to receive  
191 the money described in Subsection (2), the county legislative body shall distribute the money  
192 described in the subsection for which more than one zoological organization or zoological  
193 facility qualifies to whichever zoological organization or zoological facility the county  
194 legislative body determines is most appropriate, except that a zoological organization or  
195 zoological facility may not receive money under more than one subsection under Subsection  
196 (2).

197 (4) If no zoological organization or zoological facility qualifies to receive money  
198 described in Subsection (2), the county legislative body shall distribute the money described in  
199 the subsection for which no zoological organization or zoological facility qualifies among the  
200 zoological organizations or zoological facilities qualifying for and receiving money under the  
201 other subsections in proportion to the zoological organizations' or zoological facilities' average  
202 annual operating expenses as determined under Subsection (7).

203 (5) (a) Subject to Subsection (5)(b), the county legislative body shall distribute the  
204 money described in Subsection (1)(c) among the botanical organizations and cultural  
205 organizations in proportion to the botanical organizations' and cultural organizations' average  
206 annual operating expenses as determined under Subsection (7).

207 (b) The county may not distribute to any botanical organization or cultural organization  
208 described in Subsection (1)(c) an amount that exceeds 35% of the botanical organization's or  
209 cultural organization's operating budget.

210 ~~[(2)]~~ (6) (a) The county legislative body of each county shall create an advisory board  
211 to advise the county legislative body on disbursement of funds to botanical organizations and

212 cultural organizations under Subsection ~~[(1)(c)(i)]~~ (1)(c).

213 (b) (i) The advisory board under Subsection ~~[(2)(a)]~~ (6)(a) shall consist of seven  
214 members appointed by the county legislative body.

215 (ii) ~~[In a county of the first class, two of the seven members of the advisory board~~  
216 ~~under Subsection (2)(a) shall be appointed by the Division of Arts and Museums created in~~  
217 Section 9-6-201] In a county of the first class, the Division of Arts and Museums created in  
218 Section 9-6-201 shall appoint two of the seven members of the advisory board under  
219 Subsection (6)(a).

220 ~~[(3)]~~ (7) (a) Except as provided in Subsection ~~[(3)(b)]~~ (7)(b), to be eligible to receive  
221 money collected by the county under this part, a botanical organization, cultural organization,  
222 zoological organization, and zoological facility located within a county of the first class shall,  
223 every year:

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

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

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

229 (B) the average annual operating expenses as calculated under Subsection ~~[(3)(a)(i)]~~  
230 (7)(a)(i).

231 (b) The county legislative body may waive the operating expenses reporting  
232 requirements under Subsection ~~[(3)(a)]~~ (7)(a) for organizations described in Subsection  
233 ~~[(1)(d)(i)]~~ (1)(d).

234 ~~[(4)]~~ (8) When calculating average annual operating expenses as described in  
235 Subsection ~~[(3)]~~ (7), each botanical organization, cultural organization, and zoological  
236 organization shall use the same three-year fiscal period as determined by the county legislative  
237 body.

238 ~~[(5)]~~ (9) (a) By July 1 of each year, the county legislative body of a first class county  
239 may index the threshold amount in Subsections (1)(c) and (d).

240 (b) Any change under Subsection ~~[(5)(a)]~~ (9)(a) shall be rounded off to the nearest  
241 \$100.

242 ~~[(6)]~~ (10) (a) In a county except for a county of the first class, the county legislative



243 body shall by ordinance provide for the distribution of the entire amount of the [revenues]  
244 revenue generated by the tax imposed by this section:

245 (i) as provided in this Subsection [~~(6)~~] (10); and

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

247 (b) [~~Pursuant to~~] In accordance with an interlocal agreement established in accordance  
248 with Title 11, Chapter 13, Interlocal Cooperation Act, a county described in Subsection [~~(6)(a)~~]  
249 (10)(a) may distribute to a city, town, or political subdivision within the county [revenues]  
250 revenue generated by a tax under this part.

251 (c) The [revenues] revenue distributed under Subsection [~~(6)(a)~~] (10)(a) or (b) shall be  
252 used for one or more organizations or facilities defined in Section 59-12-702 regardless of  
253 whether the [~~revenues are~~] revenue is distributed:

254 (i) directly by the county described in Subsection [~~(6)(a)~~] (10)(a) to be used for an  
255 organization or facility defined in Section 59-12-702; or

256 (ii) in accordance with an interlocal agreement described in Subsection [~~(6)(b)~~] (10)(b).

257 [~~(7)~~] (11) A county legislative body may retain up to 1.5% of the proceeds from a tax  
258 under this part for the cost of administering this part.

259 [~~(8)~~] (12) The commission shall retain and deposit an administrative charge in  
260 accordance with Section 59-1-306 from the [revenues] revenue the commission collects from a  
261 tax under this part.

262 Section 3. **Effective date.**

263 This bill takes effect on January 1, 2025.