

Representative Sheryl L. Allen proposes the following substitute bill:

AMENDMENTS TO LOCAL OPTION SALES TAX

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Sheryl L. Allen

Katherine M. Bryson

LONG TITLE

General Description:

This bill modifies Revenue and Taxation provisions related to a local option sales tax for funding recreational and zoological facilities and botanical, cultural, and zoological organizations.

Highlighted Provisions:

This bill:

▶ extends to cities and towns in second class counties the authority to impose a sales tax for funding recreational and zoological facilities and botanical, cultural, and zoological organizations;

▶ extends from five to ~~ten~~ **EIGHT** years the period for which the sales tax may be levied;

▶ requires each election for voter approval of the sales tax to take place at a regular general election or municipal general election; and

▶ limits a county from imposing a similar county option sales tax within municipalities that have already imposed the sales tax.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.



26 Utah Code Sections Affected:

27 AMENDS:

28 59-12-703 (Superseded 07/01/04), as last amended by Chapter 296, Laws of Utah 2003

29 59-12-703 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003

30 59-12-1401, as enacted by Chapter 192, Laws of Utah 2001

31 59-12-1402 (Superseded 07/01/04), as enacted by Chapter 192, Laws of Utah 2001

32 59-12-1402 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003



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

35 Section 1. Section 59-12-703 (Superseded 07/01/04) is amended to read:

36 59-12-703 (Superseded 07/01/04). **Opinion question election -- Imposition of tax --**
37 **Revision of county ordinances to reflect statutory changes -- Uses of tax monies.**

38 (1) (a) (i) Except as provided in Subsection (1)(a)(ii), a county legislative body may
39 submit an opinion question to the residents of that county, by majority vote of all members of
40 the legislative body, so that each resident of the county, except residents in municipalities that
41 have already imposed a sales and use tax under Part 14, City or Town Option Funding For
42 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, has an
43 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
44 .1% on the transactions described in Subsection 59-12-103(1), to fund recreational and
45 zoological facilities, botanical, cultural, and zoological organizations, and rural radio stations
46 in that county.

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

49 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
50 are exempt from taxation under Section 59-12-104; [~~and~~]

51 (B) any amounts paid or charged by a vendor that collects a tax under Subsection
52 59-12-107(1)(b)[~~-~~]; and

53 (C) sales and uses within municipalities that have already imposed a sales and use tax
54 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
55 Zoological Organizations or Facilities.

56 (b) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah

57 Municipal Bond Act.

58 (2) (a) If the county legislative body determines that a majority of the county's
59 registered voters voting on the imposition of the tax have voted in favor of the imposition of
60 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
61 majority vote of all members of the legislative body on the transactions:

62 (i) described in Subsection (1); and

63 (ii) within the county, including the cities and towns located in the county, except those
64 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
65 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
66 Facilities.

67 (b) A county legislative body may revise county ordinances to reflect statutory changes
68 to the distribution formula or eligible recipients of revenues generated from a tax imposed
69 under Subsection (2)(a):

70 (i) after the county legislative body submits an opinion question to residents of the
71 county in accordance with Subsection (1)(b) giving them the opportunity to express their
72 opinion on the proposed revisions to county ordinances; and

73 (ii) if the county legislative body determines that a majority of those voting on the
74 opinion question have voted in favor of the revisions.

75 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
76 funding:

77 (a) recreational and zoological facilities located within the county or a city or town
78 located in the county, except a city or town that has already imposed a sales and use tax under
79 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
80 Organizations or Facilities; and

81 (b) ongoing operating expenses of:

82 (i) recreational facilities described in Subsection (3)(a);

83 (ii) botanical, cultural, and zoological organizations within the county; and

84 (iii) rural radio stations within the county.

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

86 (a) levied at the same time and collected in the same manner as provided in Part 2,

87 Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is

88 not subject to Subsection 59-12-205(2); and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

118 Section 2. Section **59-12-703 (Effective 07/01/04)** is amended to read:

119 **59-12-703 (Effective 07/01/04). Opinion question election -- Imposition of tax --**
120 **Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

121 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), a county
122 legislative body may submit an opinion question to the residents of that county, by majority
123 vote of all members of the legislative body, so that each resident of the county, except residents
124 in municipalities that have already imposed a sales and use tax under Part 14, City or Town
125 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
126 Facilities, has an opportunity to express the resident's opinion on the imposition of a local sales
127 and use tax of .1% on the transactions described in Subsection 59-12-103(1) located within the
128 county, to fund recreational and zoological facilities, botanical, cultural, and zoological
129 organizations, and rural radio stations, in that county.

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

132 (A) the sales and uses described in Section 59-12-104 to the extent the sales and uses
133 are exempt from taxation under Section 59-12-104[-]; and

134 (B) sales and uses within municipalities that have already imposed a sales and use tax
135 under Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and
136 Zoological Organizations or Facilities.

137 (b) For purposes of this Subsection (1), the location of a transaction shall be
138 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

139 (c) The election shall follow the procedures outlined in Title 11, Chapter 14, Utah
140 Municipal Bond Act.

141 (2) (a) If the county legislative body determines that a majority of the county's
142 registered voters voting on the imposition of the tax have voted in favor of the imposition of
143 the tax as prescribed in Subsection (1)(a), the county legislative body may impose the tax by a
144 majority vote of all members of the legislative body on the transactions:

145 (i) described in Subsection (1); and

146 (ii) within the county, including the cities and towns located in the county, except those
147 cities and towns that have already imposed a sales and use tax under Part 14, City or Town
148 Option Funding For Botanical, Cultural, Recreational, and Zoological Organizations or
149 Facilities.

150 (b) A county legislative body may revise county ordinances to reflect statutory changes
151 to the distribution formula or eligible recipients of revenues generated from a tax imposed
152 under Subsection (2)(a):

153 (i) after the county legislative body submits an opinion question to residents of the
154 county in accordance with Subsection (1)(b) giving them the opportunity to express their
155 opinion on the proposed revisions to county ordinances; and

156 (ii) if the county legislative body determines that a majority of those voting on the
157 opinion question have voted in favor of the revisions.

158 (3) The monies generated from any tax imposed under Subsection (2) shall be used for
159 funding:

160 (a) recreational and zoological facilities located within the county or a city or town
161 located in the county, except a city or town that has already imposed a sales and use tax under
162 Part 14, City or Town Option Funding For Botanical, Cultural, Recreational, and Zoological
163 Organizations or Facilities; and

164 (b) ongoing operating expenses of:

165 (i) recreational facilities described in Subsection (3)(a);

166 (ii) botanical, cultural, and zoological organizations within the county; and

167 (iii) rural radio stations within the county.

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

169 (i) except as provided in Subsection (4)(b), levied at the same time and collected in the
170 same manner as provided in Part 2, Local Sales and Use Tax Act; and

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

173 (b) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to
174 Subsections 59-12-205(2) through (5).

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

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

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

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

- 181 (A) on the first day of a calendar quarter; and
- 182 (B) after a 90-day period beginning on the date the commission receives notice meeting
- 183 the requirements of Subsection (5)(b)(ii) from the county.
- 184 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 185 (A) that the county will enact or repeal a tax under this part;
- 186 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
- 187 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
- 188 (D) if the county enacts the tax described in Subsection (5)(b)(ii)(A), the rate of the
- 189 tax.
- 190 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 191 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
- 192 (A) that begins after the effective date of the imposition of the tax; and
- 193 (B) if the billing period for the transaction begins before the effective date of the
- 194 enactment of the tax under this section.
- 195 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
- 196 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
- 197 (A) that began before the effective date of the repeal of the tax; and
- 198 (B) if the billing period for the transaction begins before the effective date of the repeal
- 199 of the tax imposed under this section.
- 200 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:
- 201 (A) Subsection 59-12-103(1)(b);
- 202 (B) Subsection 59-12-103(1)(c);
- 203 (C) Subsection 59-12-103(1)(d);
- 204 (D) Subsection 59-12-103(1)(e);
- 205 (E) Subsection 59-12-103(1)(f);
- 206 (F) Subsection 59-12-103(1)(g);
- 207 (G) Subsection 59-12-103(1)(h);
- 208 (H) Subsection 59-12-103(1)(i);
- 209 (I) Subsection 59-12-103(1)(j); or
- 210 (J) Subsection 59-12-103(1)(k).
- 211 (d) (i) Notwithstanding Subsection (5)(b)(i), if a tax due under this chapter on a

212 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
213 enactment or repeal of a tax described in Subsection (5)(b)(i) takes effect:

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

215 (B) beginning 60 days after the effective date of the enactment or repeal under

216 Subsection (5)(b)(i).

217 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
218 the commission may by rule define the term "catalogue sale."

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

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

223 (B) after a 90-day period beginning on the date the commission receives notice meeting
224 the requirements of Subsection (5)(e)(ii) from the county that annexes the annexing area.

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

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

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

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

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

231 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
232 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:

233 (A) that begins after the effective date of the imposition of the tax; and

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

236 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
237 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:

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

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

241 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:

242 (A) Subsection 59-12-103(1)(b);

- 243 (B) Subsection 59-12-103(1)(c);
244 (C) Subsection 59-12-103(1)(d);
245 (D) Subsection 59-12-103(1)(e);
246 (E) Subsection 59-12-103(1)(f);
247 (F) Subsection 59-12-103(1)(g);
248 (G) Subsection 59-12-103(1)(h);
249 (H) Subsection 59-12-103(1)(i);
250 (I) Subsection 59-12-103(1)(j); or
251 (J) Subsection 59-12-103(1)(k).

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

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

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

258 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
259 the commission may by rule define the term "catalogue sale."

260 Section 3. Section **59-12-1401** is amended to read:

261 **59-12-1401. Purpose statement -- Definitions -- Scope of part.**

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

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

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

267 Section 4. Section **59-12-1402 (Superseded 07/01/04)** is amended to read:

268 **59-12-1402 (Superseded 07/01/04). Opinion question election -- Imposition of tax**
269 **-- Uses of tax monies.**

270 (1) (a) (i) Except as provided in Subsection (1)(a)(ii) and subject to Subsection (6),
271 beginning on January 1, 2003, a city or town legislative body subject to this part may submit an
272 opinion question to the residents of that city or town, by majority vote of all members of the
273 legislative body, so that each resident of the city or town has an opportunity to express the

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

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

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

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

284 (C) on any amounts paid or charged by a vendor that collects a tax under Subsection
285 59-12-107(1)(b).

286 (b) The election shall be held at a regular general election or a municipal general
287 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
288 outlined in Title 11, Chapter 14, Utah Municipal Bond Act, except as provided in Subsection
289 (6).

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

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

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

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

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

304 (a) levied at the same time and collected in the same manner as provided in Part 2,

305 Local Sales and Use Tax Act, except that the collection and distribution of the tax revenue is
306 not subject to Subsection 59-12-205(2); and

307 (b) (i) levied for a period of [~~five~~] ~~Ĥ~~ ~~[ten]~~ EIGHT ~~ĥ~~ years; and

308 (ii) may be reauthorized at the end of the [~~five~~] ~~Ĥ~~ ~~[ten]~~ EIGHT ~~ĥ~~ -year period in accordance
308a with this
309 section.

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

311 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
312 4, Annexation.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

336 (C) the effective date of the tax described in Subsection (5)(c)(ii)(A); and
337 (D) the new rate of the tax described in Subsection (5)(c)(ii)(A).

338 (6) (a) Before a city or town legislative body submits an opinion question to the
339 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

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

342 (ii) receive from the county legislative body:

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

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

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

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

356 (B) written notice that the county legislative body will submit an opinion question to
357 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
358 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
359 that part.

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

364 (A) a 12-month period;

365 (B) the next regular primary election; or

366 (C) the next regular general election.

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

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

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

381 (B) the city or town legislative body may submit the opinion question to the residents
 382 of the city or town in accordance with this part because although a majority of the county's
 383 registered voters voted against the county imposing the tax, the majority of the registered voters
 384 who are residents of the city or town voted for the imposition of the county tax.

385 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
 386 provide a city or town legislative body described in Subsection (6)(a) a written resolution
 387 passed by the county legislative body stating that the county legislative body is not seeking to
 388 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
 389 Zoological Organizations or Facilities, which permits the city or town legislative body to
 390 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

391 Section 5. Section **59-12-1402 (Effective 07/01/04)** is amended to read:

392 **59-12-1402 (Effective 07/01/04). Opinion question election -- Imposition of tax --**
 393 **Uses of tax monies -- Enactment or repeal of tax -- Effective date -- Notice requirements.**

394 (1) (a) (i) Except as provided in Subsections (1)(a)(ii) and 59-12-207.1(7)(c), and
 395 subject to Subsection (6), beginning on January 1, 2003, a city or town legislative body subject
 396 to this part may submit an opinion question to the residents of that city or town, by majority
 397 vote of all members of the legislative body, so that each resident of the city or town has an

398 opportunity to express the resident's opinion on the imposition of a local sales and use tax of
399 .1% on the transactions described in Subsection 59-12-103(1) located within the city or town,
400 to fund recreational and zoological facilities and botanical, cultural, and zoological
401 organizations in that city or town.

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

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

407 (B) on the sales and uses described in Section 59-12-104 to the extent the sales and
408 uses are exempt from taxation under Section 59-12-104.

409 (b) For purposes of this Subsection (1), the location of a transaction shall be
410 determined in accordance with Sections 59-12-207.1 through 59-12-207.4.

411 (c) The election shall be held at a regular general election or a municipal general
412 election, as those terms are defined in Section 20A-1-102, and shall follow the procedures
413 outlined in Title 11, Chapter 14, Utah Municipal Bond Act, except as provided in Subsection
414 (6).

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

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

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

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

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

- 429 (i) except as provided in Subsection (4)(b), levied at the same time and collected in the
430 same manner as provided in Part 2, Local Sales and Use Tax Act; and
- 431 (ii) (A) levied for a period of [~~five~~] ~~H~~ [~~ten~~] EIGHT ~~h~~ years; and
432 (B) may be reauthorized at the end of the [~~five~~] ~~H~~ [~~ten~~] EIGHT ~~h~~ -year period in accordance
432a with this
433 section.
- 434 (b) Notwithstanding Subsection (4)(a)(i), a tax under this section is not subject to
435 Subsections 59-12-205(2) through (5).
- 436 (5) (a) For purposes of this Subsection (5):
- 437 (i) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part
438 4, Annexation.
- 439 (ii) "Annexing area" means an area that is annexed into a city or town.
- 440 (b) (i) Except as provided in Subsection (5)(c) or (d), if, on or after July 1, 2004, a city
441 or town enacts or repeals a tax under this part, the enactment or repeal shall take effect:
442 (A) on the first day of a calendar quarter; and
443 (B) after a 90-day period beginning on the date the commission receives notice meeting
444 the requirements of Subsection (5)(b)(ii) from the city or town.
- 445 (ii) The notice described in Subsection (5)(b)(i)(B) shall state:
- 446 (A) that the city or town will enact or repeal a tax under this part;
447 (B) the statutory authority for the tax described in Subsection (5)(b)(ii)(A);
448 (C) the effective date of the tax described in Subsection (5)(b)(ii)(A); and
449 (D) if the city or town enacts the tax described in Subsection (5)(b)(ii)(A), the rate of
450 the tax.
- 451 (c) (i) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
452 (5)(c)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
453 (A) that begins after the effective date of the imposition of the tax; and
454 (B) if the billing period for the transaction begins before the effective date of the
455 enactment of the tax under this section.
- 456 (ii) Notwithstanding Subsection (5)(b)(i), for a transaction described in Subsection
457 (5)(c)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
458 (A) that began before the effective date of the repeal of the tax; and
459 (B) if the billing period for the transaction begins before the effective date of the repeal

460 of the tax imposed under this section.

461 (iii) Subsections (5)(c)(i) and (ii) apply to transactions subject to a tax under:

462 (A) Subsection 59-12-103(1)(b);

463 (B) Subsection 59-12-103(1)(c);

464 (C) Subsection 59-12-103(1)(d);

465 (D) Subsection 59-12-103(1)(e);

466 (E) Subsection 59-12-103(1)(f);

467 (F) Subsection 59-12-103(1)(g);

468 (G) Subsection 59-12-103(1)(h);

469 (H) Subsection 59-12-103(1)(i);

470 (I) Subsection 59-12-103(1)(j); or

471 (J) Subsection 59-12-103(1)(k).

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

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

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

478 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
479 the commission may by rule define the term "catalogue sale."

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

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

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

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

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

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

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

- 491 (D) the rate of the tax described in Subsection (5)(e)(ii)(A).
- 492 (f) (i) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
493 (5)(f)(iii), the enactment of a tax shall take effect on the first day of the first billing period:
494 (A) that begins after the effective date of the imposition of the tax; and
495 (B) if the billing period for the transaction begins before the effective date of the
496 enactment of the tax under this section.
- 497 (ii) Notwithstanding Subsection (5)(e)(i), for a transaction described in Subsection
498 (5)(f)(iii), the repeal of a tax shall take effect on the first day of the last billing period:
499 (A) that began before the effective date of the repeal of the tax; and
500 (B) if the billing period for the transaction begins before the effective date of the repeal
501 of the tax imposed under this section.
- 502 (iii) Subsections (5)(f)(i) and (ii) apply to transactions subject to a tax under:
503 (A) Subsection 59-12-103(1)(b);
504 (B) Subsection 59-12-103(1)(c);
505 (C) Subsection 59-12-103(1)(d);
506 (D) Subsection 59-12-103(1)(e);
507 (E) Subsection 59-12-103(1)(f);
508 (F) Subsection 59-12-103(1)(g);
509 (G) Subsection 59-12-103(1)(h);
510 (H) Subsection 59-12-103(1)(i);
511 (I) Subsection 59-12-103(1)(j); or
512 (J) Subsection 59-12-103(1)(k).
- 513 (g) (i) Notwithstanding Subsection (5)(e)(i), if a tax due under this chapter on a
514 catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an
515 enactment or repeal of a tax described in Subsection (5)(e)(i) takes effect:
516 (A) on the first day of a calendar quarter; and
517 (B) beginning 60 days after the effective date of the enactment or repeal under
518 Subsection (5)(e)(i).
- 519 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
520 the commission may by rule define the term "catalogue sale."
- 521 (6) (a) Before a city or town legislative body submits an opinion question to the

522 residents of the city or town under Subsection (1)(a)(i), the city or town legislative body shall:

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

525 (ii) receive from the county legislative body:

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

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

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

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

539 (B) written notice that the county legislative body will submit an opinion question to
540 the residents of the county under Part 7, County Option Funding for Botanical, Cultural,
541 Recreational, and Zoological Organizations or Facilities, for the county to impose a tax under
542 that part.

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

547 (A) a 12-month period;

548 (B) the next regular primary election; or

549 (C) the next regular general election.

550 (iii) Within 30 days of the date of the canvass of the election at which the opinion
551 question under Subsection (6)(b)(ii) is voted on, the county legislative body shall provide the
552 city or town legislative body described in Subsection (6)(a) written results of the opinion

553 question submitted by the county legislative body under Part 7, County Option Funding for
554 Botanical, Cultural, Recreational, and Zoological Organizations or Facilities, indicating that:

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

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

564 (B) the city or town legislative body may submit the opinion question to the residents
565 of the city or town in accordance with this part because although a majority of the county's
566 registered voters voted against the county imposing the tax, the majority of the registered voters
567 who are residents of the city or town voted for the imposition of the county tax.

568 (c) Notwithstanding Subsection (6)(b), at any time a county legislative body may
569 provide a city or town legislative body described in Subsection (6)(a) a written resolution
570 passed by the county legislative body stating that the county legislative body is not seeking to
571 impose a tax under Part 7, County Option Funding for Botanical, Cultural, Recreational, and
572 Zoological Organizations or Facilities, which permits the city or town legislative body to
573 submit under Subsection (1)(a)(i) an opinion question to the city's or town's residents.

574 Section 6. **Effective date.**

575 This bill takes effect on May 3, 2004, except that the amendments to Sections
576 59-12-703 (Effective 07/01/04) and 59-12-1402 (Effective 07/01/04) take effect on July 1,
577 2004.

Fiscal Note

Amendments to Local Option Sales Tax

03-Feb-04

Bill Number HB0064S0111:52 AM

State Impact

Passage of this bill could increase local revenues by approximately \$9,900,000 if adopted by all eligible entities.

Individual and Business Impact

Individual living in eligible areas could see an increase in taxes paid. Individual impact would depend on the level of goods purchased.

Office of the Legislative Fiscal Analyst