

1 **FUNDING FOR TOURISM**

2 2004 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Peter C. Knudson**

5

6 **LONG TITLE**

7 **General Description:**

8 This bill modifies provisions relating to tourism advertising, marketing, and branding.

9 **Highlighted Provisions:**

10 This bill:

11 ▶ modifies the duties, membership, and powers of the Board of Travel Development
12 within the Division of Travel Development;

13 ▶ provides for a statewide restaurant sales tax on prepared foods and beverages and a
14 statewide accommodations and services tax to be deposited in the Tourism
15 Economic Stimulus Fund;

16 ▶ provides for the distribution of certain monies from the fund to sports facilities;

17 ▶ provides for the transfer of remaining monies in the Marketing and Promotion Fund
18 to the Tourism Economic Stimulus Fund; and

19 ▶ makes certain technical changes.

20 **Monies Appropriated in this Bill:**

21 This bill appropriates:

22 ▶ \$3,500,000 from the General Fund to the Tourism Economic Stimulus Fund.

23 **Other Special Clauses:**

24 This bill takes effect on July 1, 2004.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **9-3-201**, as last amended by Chapter 109, Laws of Utah 1994



28 9-3-202, as last amended by Chapter 176, Laws of Utah 2002

29 9-3-203, as last amended by Chapter 109, Laws of Utah 1994

30 9-3-204, as last amended by Chapter 207, Laws of Utah 2002

31 ENACTS:

32 9-3-207, Utah Code Annotated 1953

33 59-12-103.3, Utah Code Annotated 1953

34 59-12-103.4, Utah Code Annotated 1953

35 REPEALS:

36 9-2-1701, as enacted by Chapter 301, Laws of Utah 1997

37 9-2-1702, as last amended by Chapter 159, Laws of Utah 2001

38 9-2-1703, as last amended by Chapter 159, Laws of Utah 2001

39 9-2-1703.5, as last amended by Chapters 16 and 83, Laws of Utah 2003

40 9-2-1704, as last amended by Chapter 159, Laws of Utah 2001

41 9-2-1705, as last amended by Chapter 159, Laws of Utah 2001

42 9-2-1706, as enacted by Chapter 159, Laws of Utah 2001



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

45 Section 1. Section 9-3-201 is amended to read:

46 **9-3-201. Board of Travel Development.**

47 (1) There is created within the department the Board of Travel Development.

48 (2) The board shall advise the division in the division's planning, policies, and
49 strategies and on trends and opportunities for travel development that may exist in the various
50 areas of the state.

51 (3) The board shall approve the travel development plan, provide oversight
52 responsibility, and authorize any state advertising, marketing, and branding campaign, taking
53 into account the long-term strategic plan, economic trends, and opportunities for travel
54 development on a statewide basis, as a condition of its distribution of funds to the division
55 from the Tourism Economic Stimulus Fund created in Section 9-3-207.

56 Section 2. Section 9-3-202 is amended to read:

57 **9-3-202. Members -- Meetings -- Expenses.**

58 (1) (a) The board shall consist of [~~nine~~] 11 members appointed by the governor to

59 four-year terms of office with the consent of the Senate.

60 (b) Notwithstanding the requirements of Subsection (1)(a), the governor shall, at the
61 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
62 board members are staggered so that approximately half of the board is appointed every two
63 years.

64 (2) The members may not serve more than two full consecutive terms unless the
65 governor determines that an additional term is in the best interest of the state.

66 (3) Not more than ~~[five]~~ six members of the board may be of the same political party.

67 (4) (a) The members shall be representative of:

68 (i) all areas of the state with ~~[six]~~ five being appointed from separate geographical
69 areas as provided in Subsection (4)(b); ~~[and]~~

70 (ii) a diverse mix of ~~[the]~~ business ownership or executive management of travel ~~[and]~~
71 tourism ~~[related industries.]; and~~

72 policy-level county government.

73 (b) The geographical representatives shall be appointed as follows:

74 (i) one member from Salt Lake, Tooele, Summit, Daggett, Wasatch, Duchesne, or
75 Uintah ~~[or Morgan]~~ County;

76 (ii) one member from ~~[Davis, Weber,]~~ Box Elder, Cache, ~~[or]~~ Rich ~~[County],~~ Weber,
77 Davis, or Morgan County;

78 (iii) one member from Utah, ~~[Summit,]~~ Juab, ~~[or Wasatch]~~ Millard, Beaver, Piute,
79 Sevier, or Sanpete County;

80 (iv) one member from Carbon, Emery, Grand, ~~[Duchesne, Daggett, or Uintah]~~ or San
81 Juan County; and

82 (v) one member from ~~[San Juan, Piute,]~~ Iron, Washington, Wayne, Garfield, or Kane
83 County~~[-and].~~

84 ~~[(vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.]~~

85 (c) The travel ~~[and]~~, tourism, and industry representatives of ownership and executive
86 management shall be appointed ~~[from among active participants in the ownership or~~
87 ~~management of travel and tourism related businesses.]~~ as follows:

88 (i) one member from ownership or executive management of the lodging industry, as
89 recommended by the lodging industry for the governor's consideration;

90 (ii) one member from ownership or executive management of the restaurant industry,
91 as recommended by the restaurant industry for the governor's consideration;

92 (iii) one member from ownership or executive management in the motor vehicle rental
93 industry, as recommended by the motor vehicle rental industry for the governor's consideration;
94 and

95 (iv) one member from ownership or executive management of the ski industry, as
96 recommended by the ski industry for the governor's consideration.

97 (d) One member shall be appointed at large from ownership or executive management
98 of business, finance, economic policy, or the academic media marketing community.

99 (e) The county government representative referred to in Subsection (4)(a)(iii) shall be
100 an appointed member from an elected county executive or county legislative body, as
101 recommended by the Utah Association of Counties for the governor's consideration.

102 (5) When a vacancy occurs in the membership for any reason, the replacement shall be
103 appointed for the unexpired term from the same geographic area or industry representation as
104 the member whose office was vacated.

105 (6) [~~Five~~] Six members of the board [~~constitutes~~] constitute a quorum for conducting
106 board business and exercising board powers.

107 (7) The governor shall select one of the board members as chair and one of the board
108 members as vice chair, each for a [~~two~~] four-year term as recommended by the board for the
109 governor's consideration.

110 (8) (a) Members shall receive no compensation or benefits for their services, but may
111 receive per diem and expenses incurred in the performance of the member's official duties at
112 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

113 (b) Members may decline to receive per diem and expenses for their service.

114 (9) The board shall meet [~~at least once each quarter~~] monthly or as often as the board
115 determines to be necessary at various locations throughout the state.

116 (10) Members who may have a potential conflict of interest in consideration of fund
117 allocation decisions shall identify the potential conflict and abstain from voting on the issue.

118 (11) (a) The board may invite the current chair of the Utah Tourism Industry Coalition
119 to participate ex officio in board activities.

120 (b) The chair may not vote or receive compensation or per diem expenses for

121 participating in board activities.

122 (12) (a) The board shall determine attendance requirements for maintaining a
123 designated board seat.

124 (b) If a board member fails to attend according to the requirements established
125 pursuant to Subsection (12)(a), the board member shall be replaced upon written certification
126 from the board chair or vice chair to the governor.

127 (c) A replacement appointed by the governor under Subsection (12)(b) shall serve for
128 the remainder of the board member's unexpired term.

129 Section 3. Section **9-3-203** is amended to read:

130 **9-3-203. Board duties.**

131 (1) The board shall:

132 (a) ~~[review]~~ direct and approve a program of ~~[information,]~~ advertising, ~~[and publicity~~
133 ~~relating to the recreational, scenic, historic, highway, and tourist attractions of the state at large;~~
134 ~~and]~~ marketing, and branding funded by the Tourism Economic Stimulus Fund under Section
135 9-3-207;

136 ~~[(b) encourage and assist in the coordination of the activities of persons, firms,~~
137 ~~associations, corporations, civic groups, and governmental agencies engaged in publicizing,~~
138 ~~developing, and promoting the scenic attractions and tourist advantages of the state.]~~

139 (b) review the division programs for coordination and integration of advertising and
140 branding themes to be used whenever possible in all division programs, including recreational,
141 scenic, historic, and tourist attractions of the state at large;

142 (c) encourage and assist in coordination of the activities of persons, firms, associations,
143 corporations, civic groups, and governmental agencies engaged in publicizing, developing, and
144 promoting the scenic attractions and tourist advantages of the state; and

145 (d) (i) establish a Cooperative Fund from the monies in the Tourism Economic
146 Stimulus Fund under Section 9-3-207 for use by cities, counties, nonprofit destination
147 marketing organizations, and similar public entities for the purpose of advertising and
148 promotion to and for out-of-state residents to attract them to attend events sponsored by these
149 entities;

150 (ii) the Cooperative Fund shall receive 20% of the revenues from the Tourism
151 Economic Stimulus Fund;

152 (iii) the board shall establish by rule eligibility, advertising, and timing requirements,
153 and criteria;

154 (iv) an application from an eligible applicant to receive monies from the Cooperative
155 Fund must be submitted on or before the appropriate date established by the board;

156 (v) the board shall make a rule, in accordance with Title 63, Chapter 46a, Utah
157 Administrative Rulemaking Act, regarding the approval of applications; and

158 (vi) Cooperative Fund monies not used for eligible applications in each fiscal year shall
159 be returned to the Tourism Economic Stimulus Fund.

160 (2) The board may:

161 (a) solicit and accept contributions of moneys, services, and facilities from any other
162 sources, public or private, and shall use these funds for promoting the general interest of the
163 state in travel and tourism[-]; and

164 (b) establish subcommittees for the purpose of assisting the board in an advisory role
165 only.

166 Section 4. Section **9-3-204** is amended to read:

167 **9-3-204. Division of Travel Development -- Powers and duties -- Travel**
168 **development plan -- Annual report and survey.**

169 (1) There is created within the department the Division of Travel Development under
170 the administration and general supervision of the director.

171 (2) (a) The division shall be under the policy direction of the director.

172 (b) For the execution of the statewide advertising, marketing, and branding campaign
173 funded by the Tourism Economic Stimulus Fund, the director shall receive approval from the
174 Board of Travel Development.

175 (3) The division shall:

176 (a) be the travel development authority of the state;

177 (b) develop a travel [~~promotion~~] advertising, marketing, and branding program for the
178 state;

179 (c) develop a plan to increase the economic contribution by tourists visiting the state;

180 (d) plan and conduct a program of information, advertising, and publicity relating to
181 the recreational, scenic, historic, [~~highway,~~] and tourist advantages and attractions of the state
182 at large; and

183 (e) encourage and assist in the coordination of the activities of persons, firms,
184 associations, corporations, travel regions, counties, and governmental agencies engaged in
185 publicizing, developing, and promoting the scenic attractions and tourist advantages of the
186 state[; and].

187 (4) Any plan provided for under Subsection (3) shall address, but not be limited to,
188 enhancing the state's image, promoting Utah as a year-round destination, encouraging
189 expenditures by visitors to the state, and expanding the markets where the state is promoted.

190 (5) The division is encouraged to[:] conduct a regular and ongoing research program to
191 identify statewide economic trends and conditions in the tourism sector of the economy and to
192 provide an independent evaluation of the economic efficiency of the advertising and branding
193 campaigns conducted by the Tourism Economic Stimulus Fund.

194 [~~(a) conduct surveys on tourism promotion activities undertaken by cities and counties~~
195 ~~within the state; and]~~

196 [~~(b) in collaboration with the cities and counties surveyed, make an annual report to the~~
197 ~~Legislature on the economic benefit of those activities to the state and the cities and counties~~
198 ~~surveyed by the division.]~~

199 Section 5. Section **9-3-207** is enacted to read:

200 **9-3-207. Tourism Economic Stimulus Fund.**

201 (1) There is created a special revenue fund entitled the Tourism Economic Stimulus
202 Fund.

203 (2) The fund consists of monies generated from the following revenue sources:

204 (a) the tax imposed by Section 59-12-103.3;

205 (b) the tax imposed by Section 59-12-103.4;

206 (c) any monies remaining in the Marketing Performance Fund as of July 1, 2004; and

207 (d) an appropriation from the General Fund of \$3,500,000 for the fiscal year beginning
208 July 1, 2004.

209 (3) The fund shall earn interest.

210 (4) All interest earned on fund monies shall be deposited into the fund.

211 (5) The director may use fund monies, as authorized and approved by the Board of
212 Travel Development, to pay for the statewide advertising, marketing, and branding campaign
213 for promotion of the state as conducted by the division.

214 (6) (a) For the fiscal year beginning July 1, 2004, the director shall distribute \$500,000
215 from the fund to one or more sports facilities as determined by the department by rule in
216 accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act.

217 (b) The monies distributed under Subsection (6)(a) are nonlapsing.

218 (c) For fiscal years beginning on or after July 1, 2005, the amount distributed from the
219 fund to one or more sports facilities shall be indexed from the \$500,000 base to reflect a
220 percent increase or decrease of monies deposited in the fund from the prior fiscal year.

221 (d) For purposes of this Subsection (6), "sports facility" means an organization that is:

222 (i) exempt from federal income taxation in accordance with Section 501(3)(c), Internal
223 Revenue Code; and

224 (ii) created to foster national and international amateur sports competition to be held in
225 the state.

226 Section 6. Section **59-12-103.3** is enacted to read:

227 **59-12-103.3. State tax on accommodations and services -- Rate -- Enactment or**
228 **repeal of tax -- Tax rate change.**

229 (1) (a) Beginning July 1, 2004, through June 30, 2009, there is imposed a tax of .5% on
230 charges for the accommodations and services described in Subsection 59-12-103(1)(i).

231 (b) The revenues generated by the tax imposed under Subsection (1)(a) shall be
232 deposited into the Tourism Economic Stimulus Fund as provided in Section 9-3-207 and used
233 as provided in Subsection 9-3-207(5).

234 (2) The commission shall administer, collect, and enforce the tax authorized under this
235 section pursuant to the same procedures used in the administration, collection, and enforcement
236 of the state sales and use tax under Section 59-12-103.

237 (3) Subject to Subsection (4), a tax rate change or tax rate repeal for a tax imposed
238 under Subsection (1) shall take effect on the first day of a calendar quarter.

239 (4) (a) For a transaction described in Subsection (1), a tax rate enactment or tax rate
240 increase shall take effect on the first day of the billing period:

241 (i) that begins after the effective date of the tax rate enactment or tax rate increase; and

242 (ii) if the billing period for the transaction begins before the effective date of a tax rate
243 enactment or tax rate increase imposed under Subsection (1).

244 (b) For a transaction described in Subsection (1), a tax rate repeal or tax rate decrease

245 shall take effect on the first day of the last billing period:

246 (i) that began before the effective date of the tax rate repeal or tax rate decrease; and

247 (ii) if the billing period for the transaction begins before the effective date of a tax rate
248 repeal or tax rate decrease imposed under Subsection (1).

249 (5) All revenue received by the commission under this section shall be deposited with
250 the state treasurer and credited monthly to the Tourism Economic Stimulus Fund created in
251 Section 9-3-207.

252 (6) The Board of Travel Development shall submit an annual report to the Legislature's
253 Workforce Services and Community and Economic Development Interim Committee on the
254 use of monies received under this section and deposited in the Tourism Economic Stimulus
255 Fund, including an analysis of the results achieved by the fund.

256 Section 7. Section **59-12-103.4** is enacted to read:

257 **59-12-103.4. State tax on prepared food and beverages -- Rate -- Use of revenues**
258 **-- Administration -- Enactment or repeal of tax.**

259 (1) (a) Beginning on July 1, 2004, through June 30, 2009, there is imposed a tax of
260 .25% on all sales of prepared foods and beverages that are sold by restaurants as defined in
261 Section 59-12-602.

262 (b) The revenue generated by the tax imposed under Subsection (1)(a) shall be
263 deposited into the Tourism Economic Stimulus Fund as provided in Section 9-3-207 and used
264 as provided in Subsection 9-3-207(5).

265 (2) The commission shall administer, collect, and enforce the tax authorized under this
266 section pursuant to the same procedures used in the administration, collection, and enforcement
267 of the state sales and use tax under Section 59-12-103.

268 (3) Subject to Subsection (4), a tax rate change or tax rate repeal for a tax imposed
269 under Subsection (1) shall take effect on the first day of a calendar quarter.

270 (4) (a) For a transaction described in Subsection (1), a tax rate enactment or tax rate
271 increase shall take effect on the first day of the billing period:

272 (i) that begins after the effective date of the tax rate enactment or tax rate increase; and

273 (ii) if the billing period for the transaction begins before the effective date of a tax rate
274 enactment or tax rate increase imposed under Subsection (1).

275 (b) For a transaction described in Subsection (1), a tax rate repeal or tax rate decrease

276 shall take effect on the first day of the last billing period:

277 (i) that began before the effective date of the tax rate repeal or tax rate decrease; and

278 (ii) if the billing period for the transaction begins before the effective date of a tax rate
279 repeal or tax rate decrease imposed under Subsection (1).

280 (5) All revenue received by the commission under this section shall be deposited with
281 the state treasurer and credited monthly to the Tourism Economic Stimulus Fund created in
282 Section 9-3-207.

283 (6) The Board of Travel Development shall submit an annual report to the Legislature's
284 Workforce Services and Community and Economic Development Interim Committee on the
285 use of monies received under this section and deposited in the Tourism Economic Stimulus
286 Fund, including an analysis of the results achieved by the fund.

287 **Section 8. Repealer.**

288 This bill repeals:

289 **Section 9-2-1701, Purpose.**

290 **Section 9-2-1702, Definitions.**

291 **Section 9-2-1703, Creation and administration of fund.**

292 **Section 9-2-1703.5, Appropriations to the fund.**

293 **Section 9-2-1704, Distribution of fund monies -- Determination of recipients.**

294 **Section 9-2-1705, Creation of Tourism Marketing Performance Fund Committee --**
295 **Members -- Appointment -- Qualifications -- Terms -- Quorum -- Per diem and expenses**
296 **-- Staff.**

297 **Section 9-2-1706, Duties of Tourism Marketing Performance Fund Committee.**

298 **Section 9. Appropriation.**

299 As an ongoing appropriation subject to future budget constraints, there is appropriated
300 from the General Fund for fiscal year 2004-05, \$3,500,000.

301 **Section 10. Effective date.**

302 This bill takes effect on July 1, 2004.

Legislative Review Note

as of 2-12-04 10:09 AM

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

Office of Legislative Research and General Counsel

State Impact

Passage of this bill could increase restricted revenue by \$7,700,000 in FY 2005 and by \$9,243,000 in FY 2006. The bill also appropriates \$3,500,000 from the General Fund to the Restricted Account created in the bill. The Tax commission would require an appropriation of \$49,300 in FY 2005 to implement the provisions of the bill.

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
General Fund	\$3,549,300	\$3,500,000	\$0	\$0
Restricted Funds	\$0	\$0	\$7,700,000	\$9,243,000
TOTAL	\$3,549,300	\$3,500,000	\$7,700,000	\$9,243,000

Individual and Business Impact

Individuals using the services identified in the bill would see an increase of up to one-half percent on their bills.

Office of the Legislative Fiscal Analyst