

## LONG TITLE

### **General Description:**

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

## 10      **Highlighted Provisions:**

This bill:

- ▶ modifies the duties, membership, and powers of the Board of Travel Development the Division of Travel Development;
- ▶ modifies provisions of the Tourism Marketing Performance Fund to establish a base and provide a set-aside of a percentage of the increase in n-generated tax revenue as a funding source for increased tourism promotion;
- ▶ provides for the creation and funding of a Cooperative Program with cities, es, and nonprofit destination marketing organizations to advertise and te tourism;
- ▶ provides for sunset review of the Board of Travel Development; and
- ▶ makes certain technical changes.

## **Monies Appropriated in this Bill:**

This bill appropriates:

- ▶ \$10,000,000 as an ongoing appropriation subject to future budget constraints and an automatic \$1,000,000 reduction in each fiscal year following fiscal year 06.

## Other Special Clauses:



28        This bill takes effect on July 1, 2005.

29        **Utah Code Sections Affected:**

30        AMENDS:

31        **9-3-201**, as last amended by Chapter 109, Laws of Utah 1994

32        **9-3-202**, as last amended by Chapter 176, Laws of Utah 2002

33        **9-3-203**, as last amended by Chapter 109, Laws of Utah 1994

34        **9-3-204**, as last amended by Chapter 207, Laws of Utah 2002

35        **63-55-209**, as last amended by Chapters 37 and 90, Laws of Utah 2004

36        ENACTS:

37        **9-3-207**, Utah Code Annotated 1953

38        REPEALS:

39        **9-2-1701**, as enacted by Chapter 301, Laws of Utah 1997

40        **9-2-1702**, as last amended by Chapter 159, Laws of Utah 2001

41        **9-2-1703**, as last amended by Chapter 159, Laws of Utah 2001

42        **9-2-1703.5**, as last amended by Chapters 16 and 83, Laws of Utah 2003

43        **9-2-1704**, as last amended by Chapter 159, Laws of Utah 2001

44        **9-2-1705**, as last amended by Chapter 159, Laws of Utah 2001

45        **9-2-1706**, as enacted by Chapter 159, Laws of Utah 2001

---

---

---

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

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

49        **9-3-201. Board of Travel Development.**

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

51        (2) The board shall advise the division [in] on the division's planning, policies, and  
52        strategies and on trends and opportunities for travel development that may exist in the various  
53        areas of the state.

54        (3) The board shall perform other duties as required by Section 9-3-203.

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

56        **9-3-202. Members -- Meetings -- Expenses.**

57        (1) (a) The board shall consist of [nine] 13 members appointed by the governor to  
58        four-year terms of office with the consent of the Senate.

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

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

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

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

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

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

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

73 (i) one member from Salt Lake, Tooele, or Morgan County;

74 (ii) one member from Davis, Weber, Box Elder, Cache, or Rich County;

75 (iii) one member from Utah, Summit, Juab, or Wasatch County;

76 (iv) one member from Carbon, Emery, Grand, Duchesne, Daggett, or Uintah County

77 (v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and  
78 (vi) one member from Washington, Iron, Beaver, Sanpete, Sevier, or Millard County.

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

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

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

86                   (iii) one member from ownership or executive management of the ski industry, as  
87 recommended by the ski industry for the governor's consideration; and

88 (iv) one member from ownership or executive management of the motor vehicle rental  
89 industry, as recommended by the motor vehicle rental industry for the governor's consideration.

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

92        (e) One member shall be appointed from the Utah Tourism Industry Coalition as  
93        recommended by the coalition for the governor's consideration.

94        (f) One member shall be appointed to represent the state's counties as recommended by  
95        the Utah Association of Counties for the governor's consideration.

96        (g) (i) The governor may choose to disregard a recommendation made for a board  
97        member under Subsections (4)(c), (e), and (f).

98        (ii) The governor shall request additional recommendations if recommendations are  
99        disregarded under Subsection (4)(g)(i).

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

103       (6) [Five] Seven members of the board [constitutes] constitute a quorum for  
104       conducting board business and exercising board powers.

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

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

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

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

114       (10) Members who may have a potential conflict of interest in consideration of fund  
115       allocation decisions shall identify the potential conflict prior to voting on the issue.

116       (11) (a) The board shall determine attendance requirements for maintaining a  
117       designated board seat.

118       (b) If a board member fails to attend according to the requirements established  
119       pursuant to Subsection (11)(a), the board member shall be replaced upon written certification  
120       from the board chair or vice chair to the governor.

121        (c) A replacement appointed by the governor under Subsection (11)(b) shall serve for  
122        the remainder of the board member's unexpired term.

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

124        **9-3-203. Board duties.**

125        (1) The board shall:

126        (a) [review] have policy authority to approve a program of [information,] out-of-state  
127        advertising, [and publicity relating to the recreational, scenic, historic, highway, and tourist  
128        attractions of the state at large; and] marketing, and branding, taking into account the long-term  
129        strategic plan, economic trends, and opportunities for travel development on a statewide basis,  
130        as a condition of the distribution of funds to the division from the Tourism Marketing  
131        Performance Fund under Section 9-3-207;

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

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

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

141        (d) (i) establish a Cooperative Program from the monies in the Tourism Marketing  
142        Performance Fund under Section 9-3-207 for use by cities, counties, nonprofit destination  
143        marketing organizations, and similar public entities for the purpose of supplementing monies  
144        committed by these entities for advertising and promotion to and for out-of-state residents to  
145        attract them to visit sites advertised by and attend events sponsored by these entities;

146        (ii) the Cooperative Program shall be allocated 20% of the revenues from the Tourism  
147        Marketing Performance Fund;

148        (iii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
149        the board shall make rules:

150        (A) establishing eligibility, advertising, and timing requirements, and criteria; and

151        (B) providing for an approval process for applications;

152                   (iv) an application from an eligible applicant to receive monies from the Cooperative  
153 Program must be submitted on or before the appropriate date established by the board; and  
154                   (v) Cooperative Program monies not used in each fiscal year shall be returned to the  
155 Tourism Marketing Performance Fund.

156                   (2) The board may:

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

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

162                   (3) The board may not, except as otherwise provided in Subsection (1)(a), make policy  
163 related to the management or operation of the division.

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

165                   **9-3-204. Division of Travel Development -- Powers and duties -- Travel  
166 development plan -- Annual report and survey.**

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

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

170                   (b) The director shall receive approval from the Board of Travel Development under  
171 Subsection 9-3-203(1)(a) to execute the out-of-state advertising, marketing, and branding  
172 campaign.

173                   (3) The division shall:

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

175                   (b) develop a travel [promotion] advertising, marketing, and branding program for the  
176 state;

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

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

181                   (e) encourage and assist in the coordination of the activities of persons, firms,  
182 associations, corporations, travel regions, counties, and governmental agencies engaged in

183 publicizing, developing, and promoting the scenic attractions and tourist advantages of the  
184 state[; and].

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

188 (5) The division [is encouraged to:] shall conduct a regular and ongoing research  
189 program to identify statewide economic trends and conditions in the tourism sector of the  
190 economy and to provide an annual evaluation of the economic efficiency of the advertising and  
191 branding campaigns conducted under this part to the Legislature's Workforce Services and  
192 Community and Economic Development Interim Committee and the Economic Development  
193 and Human Resources Appropriations Subcommittee.

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 Marketing Performance Fund.**

201 (1) There is created a restricted special revenue fund known as the Tourism Marketing  
202 Performance Fund.

203 (2) The fund shall be administered by the department for use by the division for the  
204 purposes listed in Subsection (5).

205 (3) (a) The fund shall earn interest.

206 (b) All interest earned on fund monies shall be deposited into the fund.

207 (4) The fund shall be funded by:

208 (a) an annual appropriation made to the fund by the Legislature as set forth in  
209 Subsection (7); and

210 (b) increases in the sales and use tax revenues derived from the retail sales of  
211 tourist-oriented goods and services in accordance with this section.

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

214 for promotion of the state as conducted by the division.

215 (6) (a) For the fiscal year beginning July 1, 2005, the director shall allocate 7.5% of the  
216 fund, but not to exceed \$750,000, to be distributed to a sports organization for advertising,  
217 marketing, branding, and promoting Utah in attracting sporting events into the state as  
218 determined by the department by rule in accordance with Title 63, Chapter 46a, Utah  
219 Administrative Rulemaking Act.

220 (b) For a fiscal year beginning on or after July 1, 2006, the amount distributed under  
221 Subsection (6)(a) shall be indexed from the July 1, 2005 fiscal year to reflect a percent increase  
222 or decrease of monies deposited in the fund as compared to the previous fiscal year.

223 (c) The monies distributed under Subsection (6)(a) and (b) are nonlapsing.

224 (d) The department shall make a rule, in accordance with Title 63, Chapter 46a, Utah  
225 Administrative Rulemaking Act, providing for an annual accounting to the director and the  
226 board by a sports organization of the use of monies it receives under Subsection (6)(a) or (b).

227 (e) For purposes of this Subsection (6), "sports organization " means an organization  
228 that is:

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

231 (ii) created to foster national and international amateur sports competition to be held in  
232 the state and sports tourism throughout the state, to include advertising, marketing, branding,  
233 and promoting Utah for the purpose of attracting sporting events into the state.

234 (7) (a) Monies deposited in the fund shall be as follows for each fiscal year.

235 (b) (i) For the fiscal year beginning July 1, 2005, the budget base shall be a  
236 \$10,000,000 appropriation.

237 (ii) For each succeeding fiscal year, the budget base shall be the prior fiscal year's  
238 appropriation, as modified by Subsection (6)(c), plus the sales and use tax revenue increases  
239 identified in Subsection (8).

240 (c) The \$10,000,000 appropriation portion of the budget base shall decrease by  
241 \$1,000,000 in each fiscal year following fiscal year 2005-06.

242 (d) Monies in the fund are nonlapsing.

243 (8) (a) In fiscal years 2006 through 2015, a portion of the state sales and use tax  
244 revenues determined under this Subsection (8) shall be deposited to the credit of the fund.

245        (b) The State Tax Commission shall determine the amount to be deposited in the fund  
246        under this Subsection (8) in each fiscal year by applying the following formula: if the increase  
247        in the state sales and use tax revenues derived from the retail sales of tourist-oriented goods  
248        and services in the fiscal year two years prior to the fiscal year in which the deposit is to be  
249        made to the fund is at least 3% over the state sales and use tax revenues derived from the retail  
250        sales of tourist-oriented goods and services generated in the fiscal year three years prior to the  
251        fiscal year in which the deposit is to be made, an amount equal to 1/2 of the state sales and use  
252        tax revenues generated above the 3% increase shall be calculated by the commission and  
253        deposited by the state treasurer to the credit of the fund.

254        (c) Total deposits in the fund in any fiscal year under Subsections (8)(a) and (b) may  
255        not exceed the amount deposited in the fund under this section in the fiscal year immediately  
256        preceding the current fiscal year by more than \$3,000,000.

257        (d) As used in this Subsection (8), "sales of tourism-oriented goods and services" are  
258        those sales by businesses registered with the State Tax Commission under the following codes  
259        of the 1997 North American Industry Classification System of the federal Executive Office of  
260        the President, Office of Management and Budget:

- 261        (i) NAICS Code 453 Miscellaneous Store Retailers;
- 262        (ii) NAICS Code 481 Passenger Air Transportation;
- 263        (iii) NAICS Code 487 Scenic and Sightseeing Transportation;
- 264        (iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;
- 265        (v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;
- 266        (vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;
- 267        (vii) NAICS Code 721 Accommodations;
- 268        (viii) NAICS Code 722 Food Services and Drinking Places;
- 269        (ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;
- 270        (x) NAICS Code 4853 Taxi and Limousine Service;
- 271        (xi) NAICS Code 4855 Charter Bus;
- 272        (xii) NAICS Code 5616 Travel Arrangement and Reservation Services;
- 273        (xiii) NAICS Code 44611 Pharmacies and Drug Stores;
- 274        (xiv) NAICS Code 45111 Sporting Goods Stores;
- 275        (xv) NAICS Code 45112 Hobby Toy and Game Stores;

276                   (xvi) NAICS Code 45121 Book Stores and News Dealers;  
277                   (xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;  
278                   (xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;  
279                   (xix) NAICS Code 447190 Other Gasoline Stations;  
280                   (xx) NAICS Code 532111 Passenger Car Rental; and  
281                   (xxi) NAICS Code 532292 Recreational Goods Rental.

282                   Section 6. Section **63-55-209** is amended to read:

283                   **63-55-209. Repeal dates, Title 9.**

284                   (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is  
285                   repealed July 1, 2014.

286                   (2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

287                   (3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is  
288                   repealed July 1, 2010.

289                   (b) Sections 59-7-610 and 59-10-108.7, regarding tax credits for certain persons in  
290                   recycling market development zones, are repealed for taxable years beginning on or after  
291                   January 1, 2011.

292                   (c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under  
293                   Section 59-7-610 or 59-10-108.7:

294                   (i) for the purchase price of machinery or equipment described in Section 59-7-610 or  
295                   59-10-108.7 if the machinery or equipment is purchased on or after July 1, 2010; or

296                   (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b), if  
297                   the expenditure is made on or after July 1, 2010.

298                   (d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit  
299                   in accordance with Section 59-7-610 or 59-10-108.7 if:

300                   (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-108.7; and

301                   (ii) (A) for the purchase price of machinery or equipment described in Section  
302                   59-7-610 or 59-10-108.7, the machinery or equipment is purchased on or before June 30, 2010;  
303                   or

304                   (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-108.7(1)(b),  
305                   the expenditure is made on or before June 30, 2010.

306                   (4) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act, is repealed July

307 1, 2008.

308 (5) Title 9, Chapter 3, Part 2, Division of Travel Development is repealed July 1, 2015.

309 [~~5~~] ~~(6)~~ Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is  
310 repealed July 1, 2009.

311 [~~6~~] ~~(7)~~ Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1,  
312 2006.

313 **Section 7. Repealer.**

314 This bill repeals:

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

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

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

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

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

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

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

324 **Section 8. Appropriation.**

325 There is appropriated from the General Fund for fiscal year 2004-05, \$10,000,000 to the  
326 Tourism Marketing Performance Fund.

327 **Section 9. Effective date.**

328 This bill takes effect on July 1, 2005.

---

**Legislative Review Note**

**as of 12-7-04 8:41 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**Interim Committee Note**

**as of 12-08-04 11:24 AM**

The Workforce Services and Community and Economic Development Interim Committee recommended this bill.

**Legislative Committee Note**  
**as of 12-08-04 11:24 AM**

The Rural Development Legislative Liaison Committee recommended this bill.

**State Impact**

This bill appropriates \$10,000,000 from the General Fund in FY 2006 and recommends an appropriation of \$9,000,000 from the General Fund in FY 2007. Appropriated revenues will accrue to the Tourism Marketing Performance Fund. This recommended appropriation will decrease by a million dollars a year. There will be additional revenues generated by the earmarking of a portion of the growth in tourism related sales taxes. This revenue will be dependent on the growth rates in any given year and will accrue to the Tourism Marketing Performance Fund. It is expected that these earmarked revenues will compensate for the reductions in General Fund appropriation.

	<u><b>FY 2006</b></u> <u><b>Approp.</b></u>	<u><b>FY 2007</b></u> <u><b>Approp.</b></u>	<u><b>FY 2006</b></u> <u><b>Revenue</b></u>	<u><b>FY 2007</b></u> <u><b>Revenue</b></u>
General Fund	\$10,000,000	\$9,000,000	\$0	\$0
Restricted Funds	\$0	\$0	\$10,000,000	\$9,000,000
<b>TOTAL</b>	<b>\$10,000,000</b>	<b>\$9,000,000</b>	<b>\$10,000,000</b>	<b>\$9,000,000</b>

---

**Individual and Business Impact**

Passage of this bill could increase the tourism industry revenues over time.