LEGISLATIVE GENERAL COUNSEL
Ⱡ Approved for Filing: J.L. Wilson Ⱡ
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S.B. 1002
1st Sub. (Green)

Senator Scott K. Jenkins proposes the following substitute bill:

FUNDING FOR TOURISM

2005 FIRST SPECIAL SESSION

STATE OF UTAH

Sponsor: Scott K. Jenkins

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- modifies the duties, membership, and powers of the Board of Tourism Development;
- establishes a Tourism Marketing Performance Account within the General Fund to provide a set-aside of a percentage of the increase in tourism-generated tax revenue as a funding source for increased tourism promotion;
- provides for the creation and funding of a Cooperative Program with cities, counties, and nonprofit destination marketing organizations to advertise and promote tourism; and
- makes certain technical changes.

Monies Appropriated in this Bill:

This bill appropriates:

- **Ŝ➜ [~~$18,000,000~~]** **$14,000,000** **⬅Ŝ** from the General Fund for fiscal year 2005-06 only, to the Tourism Marketing Performance Account; **Ŝ➜ [~~and~~] up to $4,000,000 from any fiscal year 2004-05 General Fund surplus only to the Tourism Marketing Performance Account ⬅Ŝ**
- $10,000,000 from the Tourism Marketing Performance Account for fiscal year 2005-06 only, to the Governor's Office of Economic Development.

Other Special Clauses:

This bill takes effect on July 1, 2005.

Utah Code Sections Affected:

AMENDS:

63-38f-1406 (Effective 07/01/05), as renumbered and amended by Chapter 148, Laws of Utah 2005

63-38f-1407 (Effective 07/01/05), as renumbered and amended by Chapter 148, Laws of Utah 2005

63-38f-1408 (Effective 07/01/05), as renumbered and amended by Chapter 148, Laws of Utah 2005

63-38f-1409 (Effective 07/01/05), as renumbered and amended by Chapter 148, Laws of Utah 2005

ENACTS:

63-38f-1411, Utah Code Annotated 1953

REPEALS:

63-38f-1401 (Effective 07/01/05), as renumbered and amended by Chapter 148, Laws of Utah 2005

63-38f-1402 (Effective 07/01/05), as renumbered and amended by Chapter 148, Laws of Utah 2005

63-38f-1403 (Effective 07/01/05), as renumbered and amended by Chapter 148, Laws of Utah 2005

63-38f-1404 (Effective 07/01/05), as renumbered and amended by Chapter 148, Laws of Utah 2005

63-38f-1405 (Effective 07/01/05), as renumbered and amended by Chapter 148, Laws of Utah 2005

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

Section 1. Section **63-38f-1406 (Effective 07/01/05)** is amended to read:

63-38f-1406 (Effective 07/01/05). Board of Tourism Development.

(1) There is created within the office the Board of Tourism Development.

(2) The board shall advise the office [~~in~~] on the office's planning, policies, and

strategies and on trends and opportunities for tourism development that may exist in the various areas of the state.

(3) The board shall perform other duties as required by Section 63-38f-1408.

Section 2. Section **63-38f-1407 (Effective 07/01/05)** is amended to read:

63-38f-1407 (Effective 07/01/05). Members -- Meetings -- Expenses.

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

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

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

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

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

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

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

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

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

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

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

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

(v) one member from San Juan, Piute, Wayne, Garfield, or Kane County; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[~~(10)~~] (12) The board's office shall be in Salt Lake City.

Section 3. Section **63-38f-1408 (Effective 07/01/05)** is amended to read:

63-38f-1408 (Effective 07/01/05). Board duties.

(1) The board shall:

(a) [~~review~~] have authority to approve a tourism program of [~~information,~~] out-of-state advertising, [~~and publicity relating to the recreational, scenic, historic, highway, and tourist attractions of the state at large; and~~] marketing, and branding, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of funds to the office from the Tourism Marketing Performance Account under Section 63-38f-1411;

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

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

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

(d) (i) advise the office in establishing a Cooperative Program from the monies in the Tourism Marketing Performance Account under Section 63-38f-1411 for use by cities, counties, nonprofit destination marketing organizations, and similar public entities for the purpose of supplementing monies committed by these entities for advertising and promotion to and for out-of-state residents to attract them to visit sites advertised by and attend events sponsored by these entities;

(ii) the Cooperative Program shall be allocated 20% of the revenues appropriated to the office from the Tourism Marketing Performance Account;

(iii) the office, with approval from the board, shall establish eligibility, advertising, and timing requirements and criteria and provide for an approval process for applications;

(iv) an application from an eligible applicant to receive monies from the Cooperative Program must be submitted on or before the appropriate date established by the office; and

(v) Cooperative Program monies not used in each fiscal year shall be returned to the Tourism Marketing Performance Account.

(2) The board may:

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

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

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

Section 4. Section **63-38f-1409 (Effective 07/01/05)** is amended to read:

63-38f-1409 (Effective 07/01/05). Powers and duties of office related to tourism development plan -- Annual report and survey.

(1) The office shall:

(a) be the tourism development authority of the state;

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

(c) receive approval from the Board of Tourism Development under Subsection 63-38f-1408(1)(a) before implementing the out-of-state advertising, marketing, and branding campaign;

[~~(c)~~] (d) develop a plan to increase the economic contribution by tourists visiting the state;

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

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

(2) Any plan provided for under Subsection (1) shall address, but not be limited to, enhancing the state's image, promoting Utah as a year-round destination, encouraging expenditures by visitors to the state, and expanding the markets where the state is promoted.

[~~(3) The office is encouraged to:~~]

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

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

(3) The office shall conduct a regular and ongoing research program to identify statewide economic trends and conditions in the tourism sector of the economy and to provide an annual evaluation of the economic efficiency of the advertising and branding campaigns conducted under this part to the Legislature's Workforce Services and Community and Economic Development Interim Committee and the Economic Development and Human Resources Appropriations Subcommittee.

Section 5. Section **63-38f-1411** is enacted to read:

63-38f-1411. Tourism Marketing Performance Account.

(1) There is created within the General Fund a restricted account known as the Tourism Marketing Performance Account.

(2) The account shall be administered by the office for the purposes listed in Subsection (5).

(3) (a) The account shall earn interest.

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

(c) Monies in the account are nonlapsing.

(4) The account shall be funded by appropriations made to the account by the Legislature in accordance with this section.

(5) The director may use account monies **Ŝ→ appropriated to the office ←Ŝ** to pay for the statewide advertising, marketing, and branding campaign for promotion of the state as conducted by the office.

(6) (a) For the fiscal year beginning July 1, 2005, the director shall allocate 7.5% of the account monies appropriated to the office, but not to exceed $750,000, to be distributed to a sports organization for advertising, marketing, branding, and promoting Utah in attracting sporting events into the state as determined by the office.

(b) For a fiscal year beginning on or after July 1, 2006, the amount distributed under Subsection (6)(a) shall be indexed from the July 1, 2005 fiscal year to reflect a percent increase or decrease of monies set aside into the account as compared to the previous fiscal year.

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

(d) The office shall provide for an annual accounting to the director and the board by a sports organization of the use of monies it receives under Subsection (6)(a) or (b).

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

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

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

(7) (a) Monies set aside into the account shall be as follows:

(i) for the fiscal year beginning July 1, 2005 only, an amount appropriated in Section 7 of this bill;

(ii) for the fiscal year beginning July 1, 2006 **Ŝ→ [~~;~~] :**

(A) ←Ŝ the **Ŝ→ [~~$8,000,000 from~~] ←Ŝ** beginning nonlapsing appropriation balances **Ŝ→ , if any, ←Ŝ** in the Tourism Marketing Performance Account **Ŝ→ [~~, a~~] ;**

(B) any ←Ŝ legislative appropriation from the sales and use tax revenue increases identified in Subsection (8) **Ŝ→ [~~, plus~~] ; and**

(C) ←Ŝ any appropriation made by the Legislature from the General Fund to the account in an appropriations bill **Ŝ→ [~~;~~] ; and ←Ŝ**

(iii) for the fiscal year beginning July 1, 2007, and for each fiscal year thereafter, a $1,000,000 reduction in the prior year's appropriation sources other than the sales and use tax revenue increases identified in Subsection (8), plus a legislative appropriation from the cumulative sales and use tax revenue increases identified in Subsection (8).

(b) Monies in the account are nonlapsing.

(8) (a) In fiscal years 2006 through 2015, a portion of the state sales and use tax revenues determined under this Subsection (8) shall be certified as a set-aside for the account by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst.

(b) The State Tax Commission shall determine the set-aside under this Subsection (8) in each fiscal year by applying the following formula: if the increase in the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services in the fiscal year two years prior to the fiscal year in which the set-aside is to be made for the account is at least 3% over the state sales and use tax revenues derived from the retail sales of tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal year in which the set-aside is to be made, an amount equal to 1/2 of the state sales and use tax revenues generated above the 3% increase shall be calculated by the commission and set aside by the state treasurer for appropriation to the account.

(c) Total monies to be appropriated to the account in any fiscal year under Subsections (8)(a) and (b) may not exceed the amount in the account under this section in the fiscal year immediately preceding the current fiscal year by more than $3,000,000.

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

(i) NAICS Code 453 Miscellaneous Store Retailers;

(ii) NAICS Code 481 Passenger Air Transportation;

(iii) NAICS Code 487 Scenic and Sightseeing Transportation;

(iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;

(v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;

(vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;

(vii) NAICS Code 721 Accommodations;

(viii) NAICS Code 722 Food Services and Drinking Places;

(ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;

(x) NAICS Code 4853 Taxi and Limousine Service;

(xi) NAICS Code 4855 Charter Bus;

(xii) NAICS Code 5616 Travel Arrangement and Reservation Services;

(xiii) NAICS Code 44611 Pharmacies and Drug Stores;

(xiv) NAICS Code 45111 Sporting Goods Stores;

(xv) NAICS Code 45112 Hobby Toy and Game Stores;

(xvi) NAICS Code 45121 Book Stores and News Dealers;

(xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;

(xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;

(xix) NAICS Code 447190 Other Gasoline Stations;

(xx) NAICS Code 532111 Passenger Car Rental; and

(xxi) NAICS Code 532292 Recreational Goods Rental.

Section 6. **Repealer.**

This bill repeals:

Section **63-38f-1401 (Effective 07/01/05), Purpose.**

Section **63-38f-1402 (Effective 07/01/05), Definitions.**

Section **63-38f-1403 (Effective 07/01/05), Creation and administration of fund.**

Section **63-38f-1404 (Effective 07/01/05), Appropriations to the fund.**

Section **63-38f-1405 (Effective 07/01/05), Distribution of fund monies -- Determination of recipients.**

Section 7. **Appropriation.**

(1) There is appropriated to the Tourism Marketing Performance Account for the fiscal year beginning July 1, 2005, and ending June 30, 2006 only, **Ŝ→ [~~$18,000,000~~] $14,000,000 ←Ŝ** from the General Fund, one-time; and **Ŝ→ [~~($8,000,000)~~] ($4,000,000) ←Ŝ** from Closing Nonlapsing Appropriations Balances to help pay for the statewide advertising, marketing, and branding campaign for promotion of the state.

(2) There is appropriated to the Governor's Office of Economic Development for the fiscal year beginning July 1, 2005, and ending June 30, 2006 only, $10,000,000 from the Tourism Marketing Performance Account for the statewide advertising, marketing, and branding campaign for tourism promotion of the state.

Ŝ→ (3) If at the end of fiscal year 2004-05, after the Division of Finance has transferred monies to the Budget Reserve Account in accordance with Section 63-38-2.5, held back monies for the payment of additional debt service in accordance with Section 63-38-2.5, and subtracted monies earmarked to the Industrial Assistance Fund in accordance with Section 63-38f-904, there remains a General Fund surplus for fiscal year 2004-05, there is appropriated from the General Fund to the Tourism Marketing Performance Account an amount equal to the lesser of: ←Ŝ

Ŝ→ (a) the amount of the General Fund surplus that remains for fiscal year 2004-05 after the Division of Finance has:

(i) transferred and held back the monies in accordance with Section 63-38-2.5; and

(ii) subtracted the monies in accordance with Section 63-38f-904; or

(b) $4,000,000 ←Ŝ

Section 8. **Effective date.**

This bill takes effect on July 1, 2005.

Fiscal Note | **Funding for Tourism** | *20-Apr-05*

Bill Number SB1002s01 | *11:20 AM*

State Impact

Passage of this bill would appropriate $18,000,000 from the General Fund to the Tourism Marketing Performance Fund in FY 2006. The Governor's Office of Economic Development is provided authority in the bill to spend $10,000,000 from the Fund in FY 2006, leaving a nonlapsing balance of $8,000,000 at the end of FY 2006 for expenditure in FY 2007. Passage of this bill also earmarks a portion of future sales tax revenue growth to be appropriated to the Tourism Marketing Performance Fund. It is estimated that this diversion would be as much as $3,000,000 additional annually. The annual diversion at the end of 10 years would be $30,000,000.

	FY 2006 Approp.	FY 2007 Approp.	FY 2006 Revenue	FY 2007 Revenue
General Fund	$18,000,000	$0	$0	$0
General Fund Restricted	$0	$0	$18,000,000	$0
Nonlapsing Funds	($8,000,000)	$8,000,000	$0	$0
TOTAL	**$10,000,000**	**$8,000,000**	**$18,000,000**	**$0**

Individual and Business Impact

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

Office of the Legislative Fiscal Analyst