

Senator Wayne L. Niederhauser proposes the following substitute bill:

FUNDING FOR TOURISM PROMOTION

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne L. Niederhauser

House Sponsor: _____

Cosponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill amends provisions relating to the Tourism, Recreation, Cultural, and Convention Facilities Tax to address funding for tourism promotion.

Highlighted Provisions:

This bill:

- ▶ creates the Restaurant Industry Promotion Fund;
 - ▶ defines terms;
 - ▶ requires a county legislative body of a county of the first or second class that imposes a tax on prepared foods and beverages to deposit each calendar year at least 3% of the revenues from the imposition of that tax within the county:
 - to the Restaurant Industry Promotion Fund; and
 - to be expended by the Commissioner of Agriculture and Food for tourism promotion in the state by promoting increased patronage of restaurants in the state by persons who reside in the state and persons who reside outside the state;
- and
- ▶ makes technical changes.

Monies Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **17-31-5.5**, as last amended by Chapter 134, Laws of Utah 2006

32 **59-12-602**, as last amended by Chapter 248, Laws of Utah 1995

33 **59-12-603**, as last amended by Chapters 134 and 253, Laws of Utah 2006

34 ENACTS:

35 **4-40-101**, Utah Code Annotated 1953

36 **4-40-102**, Utah Code Annotated 1953

37 **4-40-103**, Utah Code Annotated 1953

38

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

40 Section 1. Section **4-40-101** is enacted to read:

41 **CHAPTER 40. RESTAURANT INDUSTRY PROMOTION FUND ACT**

42 **4-40-101. Title.**

43 This chapter is known as the Restaurant Industry Promotion Fund Act.

44 Section 2. Section **4-40-102** is enacted to read:

45 **4-40-102. Definitions.**

46 As used in this chapter, "fund" means the Restaurant Industry Promotion Fund created
47 by Section 4-40-103.

48 Section 3. Section **4-40-103** is enacted to read:

49 **4-40-103. Restaurant Industry Promotion Fund -- Source of monies -- Interest --**

50 **Expenditure of monies.**

51 (1) There is created a restricted special revenue fund known as the Restaurant Industry
52 Promotion Fund.

53 (2) The fund shall be funded by the portion of the sales and use tax described in
54 Section 59-12-603(2)(b).

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

56 (b) Any interest earned on fund monies shall be deposited into the fund.

(4) The commissioner shall expend the monies deposited into the fund for tourism promotion in the state by promoting increased patronage of restaurants in this state by:

(a) persons who reside within the state; and

(b) persons who reside outside the state.

Section 4. Section **17-31-5.5** is amended to read:

17-31-5.5. Independent audit -- Report to county legislative body -- Content.

(1) The legislative body of each county imposing the transient room tax provided for in Section 59-12-301 shall annually engage an independent auditor to perform an audit to verify that transient room tax funds are used only as authorized by this chapter and to report the findings of the audit to the county legislative body.

(2) Subsection (1) applies to the tourism, recreation, cultural, and convention facilities tax provided for in Section 59-12-603, except that the audit verification required under this Subsection (2) shall be for the uses authorized under Section 59-12-603.

(3) The report required under Subsection (1) shall include a breakdown of expenditures into the following categories:

(a) for the transient room tax, identification of expenditures for:

(i) establishing and promoting:

(A) recreation;

(B) tourism;

(C) film production; and

(D) conventions;

(ii) acquiring, leasing, constructing, furnishing, or operating:

(A) convention meeting rooms;

(B) exhibit halls;

(C) visitor information centers;

(D) museums; and

(E) related facilities;

(iii) acquiring or leasing land required for or related to the purposes listed in Subsection (3)(a)(ii);

(iv) mitigation costs as identified in Subsection 17-31-2(1)(d); and

(v) making the annual payment of principal, interest, premiums, and necessary reserves

for any or the aggregate of bonds issued to pay for costs referred to in Subsections 17-31-2(2)(c) and (3)(a); and

(b) for the tourism, recreation, cultural, and convention facilities tax, identification of expenditures for:

(i) financing tourism promotion~~[, which means an activity to develop, encourage, solicit, or market tourism that attracts transient guests to the county, including planning, product development, and advertising]~~ as defined in Section 59-12-602;

(ii) the development, operation, and maintenance of the following facilities as defined in Section 59-12-602:

(A) tourist facilities;

(B) recreation facilities;

(C) cultural facilities; and

(D) convention facilities; and

(iii) a pledge as security for evidences of indebtedness under Subsection 59-12-603(4).

(4) A county legislative body shall provide a copy of a report it receives under this section to:

(a) the Governor's Office of Economic Development;

(b) its tourism tax advisory board; and

(c) the Office of the Legislative Fiscal Analyst.

Section 5. Section **59-12-602** is amended to read:

59-12-602. Definitions.

As used in this part:

(1) "Convention facility" means any publicly owned or operated convention center, sports arena, or other facility at which conventions, conferences, and other gatherings are held and whose primary business or function is to host such conventions, conferences, and other gatherings.

(2) "Cultural facility" means any publicly owned or operated museum, theater, art center, music hall, or other cultural or arts facility.

(3) "Qualifying bonded indebtedness payment" means an amount a county of the first or second class pays or reimburses from revenues collected from the tax under Subsection 59-12-603(1)(a)(ii) for debt service on a bond, note, or other evidence of indebtedness issued

on or before April 29, 2007, if:

(a) the face value of the bond, note, or other evidence of indebtedness is not increased;

(b) the term for repayment of the bond, note, or other evidence of indebtedness is not extended;

(c) the bond, note, or other evidence of indebtedness is not retired; or

(d) the bond, note, or other evidence of indebtedness is not substantially modified in a manner other than as described in Subsections (3)(a) through (c).

~~[(3)]~~ (4) "Recreation facility" or "tourist facility" means any publicly owned or operated park, campground, marina, dock, golf course, water park, historic park, monument, planetarium, zoo, bicycle trails, and other recreation or tourism-related facility.

~~[(4)]~~ (5) (a) "Restaurant" includes any coffee shop, cafeteria, luncheonette, soda fountain, or fast-food service where food is prepared for immediate consumption.

(b) "Restaurant" does not include:

(i) any retail establishment whose primary business or function is the sale of fuel or food items for off-premise, but not immediate, consumption; and

(ii) a theater that sells food items, but not a dinner theater.

(6) (a) "Tourism promotion" means to develop, market, promote, or solicit tourism.

(b) "Tourism promotion" includes:

(i) advertising;

(ii) planning;

(iii) product development; or

(iv) tourism promotion as described in Subsection 59-12-603(2)(b)(ii) or (2)(c).

Section 6. Section **59-12-603** is amended to read:

59-12-603. County tax -- Bases -- Rates -- Use of revenues -- Collection -- Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) (a) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tax as follows:

(i) (A) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor

vehicle that is being repaired pursuant to a repair or an insurance agreement; and

(B) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i)(A) may, in addition to imposing the tax under Subsection (1)(a)(i)(A), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of prepared foods and beverages that are sold by restaurants; and

(iii) a county legislative body of any county may impose a tax of not to exceed .5% on charges for the accommodations and services described in Subsection 59-12-103(1)(i).

(b) A tax imposed under Subsection (1)(a) is in addition to the transient room tax authorized under Part 3, Transient Room Tax, and is subject to the audit provisions of Section 17-31-5.5.

(2) (a) Subject to ~~[Subsection]~~ Subsections (2)(b) and (c), revenue from the imposition of the taxes provided for in Subsections (1)(a)(i) through (iii) may be used for the purposes of:

(i) financing tourism promotion; and

(ii) the development, operation, and maintenance of tourist, recreation, cultural, and convention facilities as defined in Section 59-12-602.

(b) (i) Each calendar year, beginning with the calendar year beginning on January 1, 2008, a county legislative body of a county of the first or second class that imposes a tax authorized by Subsection (1)(a)(ii) shall deposit into the Restaurant Industry Promotion Fund created by Section 4-40-103 the difference between:

(A) 3% of the revenues from the imposition of the tax authorized by Subsection (1)(a)(ii) within that county of the first or second class for that calendar year; and

(B) the sum of any qualifying bonded indebtedness payments that county of the first or second class makes for that calendar year.

(ii) Revenues deposited into the Restaurant Industry Promotion Fund in accordance with Subsection (2)(b)(i) shall be expended for tourism promotion in the state as provided in Section 4-40-103 by promoting increased patronage of restaurants in the state by:

(A) persons who reside in the state; and

181 (B) persons who reside outside the state.

182 ~~[(b)]~~ (c) A county of the first class shall expend at least \$450,000 each year of the
183 revenues from the imposition of a tax authorized by Subsection (1)(a)(iii) within the county to
184 fund a marketing and ticketing system designed ~~[to]~~:

185 (i) ~~[promote]~~ for tourism promotion in ski areas within the county by persons that do
186 not reside within the state; and

187 (ii) to combine the sale of:

188 (A) ski lift tickets; and

189 (B) accommodations and services described in Subsection 59-12-103(1)(i).

190 (3) The tax imposed under Subsection (1)(a)(iii) shall be in addition to the tax imposed
191 under Part 3, Transient Room Tax, and may be imposed only by a county of the first class.

192 (4) A tax imposed under this part may be pledged as security for bonds, notes, or other
193 evidences of indebtedness incurred by a county under Title 11, Chapter 14, Local Government
194 Bonding Act, to finance tourism, recreation, cultural, and convention facilities.

195 (5) (a) In order to impose the tax under Subsection (1), each county legislative body
196 shall annually adopt an ordinance imposing the tax.

197 (b) The ordinance under Subsection (5)(a) shall include provisions substantially the
198 same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on
199 those items and sales described in Subsection (1).

200 (c) The name of the county as the taxing agency shall be substituted for that of the state
201 where necessary, and an additional license is not required if one has been or is issued under
202 Section 59-12-106.

203 (6) In order to maintain in effect its tax ordinance adopted under this part, each county
204 legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1,
205 Tax Collection, adopt amendments to its tax ordinance to conform with the applicable
206 amendments to Part 1, Tax Collection.

207 (7) (a) (i) Except as provided in Subsection (7)(a)(ii), a tax authorized under this part
208 shall be administered, collected, and enforced in accordance with:

209 (A) the same procedures used to administer, collect, and enforce the tax under:

210 (I) Part 1, Tax Collection; or

211 (II) Part 2, Local Sales and Use Tax Act; and

(B) Chapter 1, General Taxation Policies.

(ii) A tax under this part is not subject to Section 59-12-107.1 or Subsections 59-12-205(2) through (7).

(b) Except as provided in Subsection (7)(c):

(i) for a tax under this part other than the tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues to the county imposing the tax; and

(ii) for a tax under Subsection (1)(a)(i)(B), the commission shall distribute the revenues according to the distribution formula provided in Subsection (8).

(c) Notwithstanding Subsection (7)(b), the commission shall deduct from the distributions under Subsection (7)(b) an administrative charge for collecting the tax as provided in Section 59-12-206.

(8) The commission shall distribute the revenues generated by the tax under Subsection (1)(a)(i)(B) to each county collecting a tax under Subsection (1)(a)(i)(B) according to the following formula:

(a) the commission shall distribute 70% of the revenues based on the percentages generated by dividing the revenues collected by each county under Subsection (1)(a)(i)(B) by the total revenues collected by all counties under Subsection (1)(a)(i)(B); and

(b) the commission shall distribute 30% of the revenues based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(i)(B) by the total population of all counties collecting a tax under Subsection (1)(a)(i)(B).

(9) (a) For purposes of this Subsection (9):

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

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

(b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;
(B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);
(C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and
(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

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

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

(ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

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

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

(iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(e);

(B) Subsection 59-12-103(1)(i); or

(C) Subsection 59-12-103(1)(k).

(d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

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

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment,

repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax.

(e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

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

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

(ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

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

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

(iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(e);

(B) Subsection 59-12-103(1)(i); or

(C) Subsection 59-12-103(1)(k).

S.B. 68 1st Sub. (Green) - Funding for Tourism Promotion

Fiscal Note

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill would have no net impact. However, there would be a diversion of approximately \$737,700 annually (starting with \$363,000 in the second half of FY 2008) from current allocations to an organization whose primary purpose is to promote the restaurant industry statewide.
