

1                   **TOURISM MARKETING PERFORMANCE AMENDMENTS**

2                                   2015 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Brad R. Wilson**

5                           Senate Sponsor: Evan J. Vickers

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7   **LONG TITLE**

8   **General Description:**

9           This bill modifies provisions of the Tourism Marketing Performance Account.

10 **Highlighted Provisions:**

11       This bill:

12           ▶ modifies the duties of the Board of Tourism Development and the duties of the  
13 Governor's Office of Economic Development related to tourism;

14           ▶ modifies the formula for determining potential increases in legislative  
15 appropriations for the Tourism Marketing Performance Account; and

16           ▶ makes technical changes.

17 **Money Appropriated in this Bill:**

18       None

19 **Other Special Clauses:**

20       This bill provides a special effective date.

21 **Utah Code Sections Affected:**

22 AMENDS:

23           **63M-1-1403**, as last amended by Laws of Utah 2014, Chapter 429

24           **63M-1-1406**, as last amended by Laws of Utah 2014, Chapter 423

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

27       Section 1. Section **63M-1-1403** is amended to read:

28       **63M-1-1403. Board duties.**

29       (1) The board ~~shall~~:

30 (a) ~~[have]~~ has authority to approve a tourism program of out-of-state advertising,  
31 marketing, and branding, taking into account the long-term strategic plan, economic trends, and  
32 opportunities for tourism development on a statewide basis, as a condition of the distribution of  
33 funds to the office from the:

34 (i) Tourism Marketing Performance Account ~~[under]~~ created in Section 63M-1-1406;  
35 and

36 ~~[(b) have authority to approve a tourism program of advertising, marketing, and~~  
37 ~~branding of the state, taking into account the long-term strategic plan, economic trends, and~~  
38 ~~opportunities for tourism development on a statewide basis, as a condition of the distribution of~~  
39 ~~money to the office from the]~~

40 (ii) Stay Another Day and Bounce Back Account, created in Section 63M-1-3411;

41 ~~[(e)]~~ (b) shall review ~~[the]~~ office programs ~~[for coordination and integration of]~~ to  
42 coordinate and integrate advertising and branding themes ~~[to be used whenever possible in all~~  
43 ~~office programs, including], which may include~~ recreational, scenic, historic, and tourist  
44 attractions of the state ~~[at large], to be used in office programs;~~

45 ~~[(d)]~~ (c) shall encourage and assist in ~~[coordination of the]~~ coordinating activities of  
46 persons, firms, associations, corporations, civic groups, and governmental agencies that are  
47 engaged in publicizing, developing, and promoting the scenic attractions and tourist advantages  
48 of the state; and

49 ~~[(e)-(i)]~~ (d) shall advise the office in establishing a ~~[Cooperative Program from the~~  
50 ~~money in]~~ cooperative program using funds from the Tourism Marketing Performance Account  
51 ~~[under]~~ created in Section 63M-1-1406 ~~[for use by cities, counties, nonprofit destination~~  
52 ~~marketing organizations, and similar public entities for the purpose of supplementing money~~  
53 ~~committed by these entities for advertising and promotion to and for out-of-state residents to~~  
54 ~~attract them to visit sites advertised by and attend events sponsored by these entities;].~~

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

57 ~~[(iii) the office, with approval from the board, shall establish eligibility, advertising,~~

58 ~~and timing requirements and criteria and provide for an approval process for applications;]~~

59 ~~[(iv) an application from an eligible applicant to receive money from the Cooperative~~  
60 ~~Program must be submitted on or before the appropriate date established by the office; and]~~

61 ~~[(v) Cooperative Program money not used in each fiscal year shall be returned to the~~  
62 ~~Tourism Marketing Performance Account.]~~

63 (2) The board may:

64 (a) solicit and accept contributions of money, services, and facilities from any other  
65 sources, public or private and shall use these funds for promoting the general interest of the  
66 state in tourism; and

67 (b) establish subcommittees for the purpose of assisting the board in an advisory role  
68 ~~[only].~~

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

71 (4) (a) For each fiscal year, the office shall allocate 20% of the funds appropriated to  
72 the Tourism Marketing and Performance Account created in Section [63M-1-1406](#) to the  
73 cooperative program described in Subsection (1)(d) and this Subsection (4).

74 (b) Money allocated to the cooperative program may be awarded to cities, counties,  
75 nonprofit destination marketing organizations, and similar public entities for the purpose of  
76 supplementing money committed by these entities for advertising and promoting sites and  
77 events in the state.

78 (c) The office, with approval from the board, shall establish:

79 (i) an application and approval process for an entity to receive a cooperative program  
80 award, including an application deadline;

81 (ii) the criteria for awarding a cooperative program award, which shall emphasize  
82 attracting out-of-state visitors, and may include attracting in-state visitors, to sites and events in  
83 the state; and

84 (iii) eligibility, advertising, timing, and reporting requirements of an entity that  
85 receives a cooperative program award.

86 (d) Money allocated to the cooperative program that is not used in each fiscal year shall  
87 be returned to the Tourism Marketing Performance Account.

88 Section 2. Section **63M-1-1406** is amended to read:

89 **63M-1-1406. Tourism Marketing Performance Account.**

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

92 (2) The account shall be administered by [~~the office~~] GOED for the purposes listed in  
93 Subsection (5).

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

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

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

98 (5) The director shall use account money appropriated to [~~the office~~] GOED to pay for  
99 the statewide advertising, marketing, and branding campaign for promotion of the state as  
100 conducted by [~~the office~~] GOED.

101 (6) (a) For [~~a~~] each fiscal year beginning on or after July 1, 2007, [~~the office~~] GOED  
102 shall annually allocate 10% of the account money appropriated to [~~the office~~] GOED to a  
103 sports organization for advertising, marketing, branding, and promoting Utah in attracting  
104 sporting events into the state.

105 (b) The sports organization shall:

106 (i) provide an annual written report to [~~the office~~] GOED that gives [~~a complete~~] an  
107 accounting of the use of money the sports organization receives under this Subsection (6); and

108 (ii) partner with [~~the office~~] GOED to promote the state and to encourage economic  
109 growth in the state.

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

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

114 (ii) created to foster national and international sports competitions in the state,  
115 including competitions related to Olympic sports, and to promote and encourage sports tourism  
116 throughout the state, including advertising, marketing, branding, and promoting Utah for the  
117 purpose of attracting, expanding, and retaining sporting events ~~[into]~~ in the state.

118 (7) Money deposited into the account shall ~~[consist of]~~ include a legislative  
119 appropriation from the cumulative sales and use tax revenue increases ~~[identified]~~ described in  
120 Subsection (8), plus any additional appropriation made by the Legislature.

121 (8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax  
122 revenues determined under this Subsection (8) shall be certified ~~[as a set-aside for the account~~  
123 ~~by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst]~~ by the  
124 State Tax Commission as a set-aside for the account, and the State Tax Commission shall  
125 report the amount of the set-aside to the office, the Office of Legislative Fiscal Analyst, and the  
126 Division of Finance, which shall set aside the certified amount for appropriation to the account.

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

136 (b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the  
137 set-aside under this Subsection (8) in each fiscal year by applying one of the following  
138 formulas: if the annual percentage change in the Consumer Price Index for All Urban  
139 Consumers, as published by the Bureau of Labor Statistics of the United States Department of  
140 Labor, for the fiscal year two years before the fiscal year in which the set-aside is to be made is:

141 (i) greater than 3%, and if the annual percentage change in the state sales and use tax

142 revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal  
143 year three years before the fiscal year in which the set-aside is to be made to the fiscal year two  
144 years before the fiscal year in which the set-aside is to be made is greater than the annual  
145 percentage change in the Consumer Price Index for the fiscal year two years before the fiscal  
146 year in which the set-aside is to be made, then the difference between the annual percentage  
147 change in the state sales and use tax revenues attributable to the retail sales of tourist-oriented  
148 goods and services and the annual percentage change in the Consumer Price Index shall be  
149 multiplied by an amount equal to the state sales and use tax revenues attributable to the retail  
150 sales of tourist-oriented goods and services from the fiscal year three years before the fiscal  
151 year in which the set-aside is to be made; or

152 (ii) 3% or less, and if the annual percentage change in the state sales and use tax  
153 revenues attributable to the retail sales of tourist-oriented goods and services from the fiscal  
154 year three years before the fiscal year in which the set-aside is to be made to the fiscal year two  
155 years before the fiscal year in which the set-aside is to be made is greater than 3%, then the  
156 difference between the annual percentage change in the state sales and use tax revenues  
157 attributable to the retail sales of tourist-oriented goods and services and 3% shall be multiplied  
158 by an amount equal to the state sales and use tax revenues attributable to the retail sales of  
159 tourist-oriented goods and services from the fiscal year three years before the fiscal year in  
160 which the set-aside is to be made.

161 (c) The total money appropriated to the account in ~~[any]~~ a fiscal year under Subsections  
162 (8)(a) and (b) may not exceed the amount ~~[in the account under this section in the fiscal year~~  
163 ~~immediately preceding the current]~~ appropriated to the account in the preceding fiscal year by  
164 more than \$3,000,000.

165 (d) As used in this Subsection (8), "state sales and use tax revenues" are revenues  
166 collected under Subsections [59-12-103\(2\)\(a\)\(i\)\(A\)](#) and [59-12-103\(2\)\(c\)\(i\)](#).

167 ~~[(d)]~~ (e) As used in this Subsection (8), "retail sales of tourist-oriented goods and  
168 services" are ~~[those sales by businesses]~~ calculated by adding the following percentages of  
169 sales from each business registered with the State Tax Commission under one of the following

170 codes of the [1997] 2012 North American Industry Classification System of the federal  
171 Executive Office of the President, Office of Management and Budget:  
172        ~~[(i) NAICS Code 453 Miscellaneous Store Retailers;]~~  
173        ~~[(ii) NAICS Code 481 Passenger Air Transportation;]~~  
174        ~~[(iii) NAICS Code 487 Scenic and Sightseeing Transportation;]~~  
175        ~~[(iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;]~~  
176        ~~[(v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;]~~  
177        ~~[(vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;]~~  
178        ~~[(vii) NAICS Code 721 Accommodations;]~~  
179        ~~[(viii) NAICS Code 722 Food Services and Drinking Places;]~~  
180        ~~[(ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;]~~  
181        ~~[(x) NAICS Code 4853 Taxi and Limousine Service;]~~  
182        ~~[(xi) NAICS Code 4855 Charter Bus;]~~  
183        ~~[(xii) NAICS Code 5615 Travel Arrangement and Reservation Services;]~~  
184        ~~[(xiii) NAICS Code 44611 Pharmacies and Drug Stores;]~~  
185        ~~[(xiv) NAICS Code 45111 Sporting Goods Stores;]~~  
186        ~~[(xv) NAICS Code 45112 Hobby Toy and Game Stores;]~~  
187        ~~[(xvi) NAICS Code 45121 Book Stores and News Dealers;]~~  
188        ~~[(xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;]~~  
189        ~~[(xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;]~~  
190        ~~[(xix) NAICS Code 447190 Other Gasoline Stations;]~~  
191        ~~[(xx) NAICS Code 532111 Passenger Car Rental, and]~~  
192        ~~[(xxi) NAICS Code 532292 Recreational Goods Rental.]~~  
193        ~~[(e) The Division of Finance shall for each fiscal year transfer the first \$6,000,000 of~~  
194 ~~ongoing money in the account to the General Fund.]~~  
195        (i) 80% of the sales from each business under NAICS Codes:  
196        (A) 532111 Passenger Car Rental;  
197        (B) 53212 Truck, Utility Trailer, and RV (Recreational Vehicle) Rental and Leasing;

- 198            (C) 5615 Travel Arrangement and Reservation Services;
- 199            (D) 7211 Traveler Accommodation; and
- 200            (E) 7212 RV (Recreational Vehicle) Parks and Recreational Camps;
- 201            (ii) 25% of the sales from each business under NAICS Codes:
- 202            (A) 51213 Motion Picture and Video Exhibition;
- 203            (B) 532292 Recreational Goods Rental;
- 204            (C) 711 Performing Arts, Spectator Sports, and Related Industries;
- 205            (D) 712 Museums, Historical Sites, and Similar Institutions; and
- 206            (E) 713 Amusement, Gambling, and Recreation Industries;
- 207            (iii) 20% of the sales from each business under NAICS Code 722 Food Services and
- 208 Drinking Places;
- 209            (iv) 18% of the sales from each business under NAICS Codes:
- 210            (A) 447 Gasoline Stations; and
- 211            (B) 81293 Parking Lots and Garages;
- 212            (v) 14% of the sales from each business under NAICS Code 8111 Automotive Repair
- 213 and Maintenance; and
- 214            (vi) 5% of the sales from each business under NAICS Codes:
- 215            (A) 445 Food and Beverage Stores;
- 216            (B) 446 Health and Personal Care Stores;
- 217            (C) 448 Clothing and Clothing Accessories Stores;
- 218            (D) 451 Sporting Goods, Hobby, Musical Instrument, and Book Stores;
- 219            (E) 452 General Merchandise Stores; and
- 220            (F) 453 Miscellaneous Store Retailers.
- 221            Section 3. **Effective date.**
- 222            This bill takes effect on July 1, 2015.