

Legislative Analysis



MICHIGAN PROMOTION ASSESSMENT ACT & FUND

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5017
Sponsor: Rep. Woodrow Stanley

House Bill 5088
Sponsor: Rep. Dan Scripps

House Bill 5018
Sponsor: Rep. David Nathan

House Bill 5089
Sponsor: Rep. Gary McDowell

Committee: Tourism, Outdoor Recreation and Natural Resources

Complete to 6-15-09

A SUMMARY OF HOUSE BILLS 5017-5018 AS INTRODUCED 5-28-09, AND HOUSE BILLS 5088-5098 AS INTRODUCED 6-11-09

The package of bills would create the Michigan Promotion Fund, primarily for use in promoting tourism. Generally speaking, the Fund would receive revenue from a temporary new \$2.50 per day assessment on certain rental vehicles and revenue from the increase from one year to the next in collections of the first four cents of the sales and use taxes levied on certain tourist-related businesses.

House Bill 5017 would create the "Michigan Promotion Assessment Act" to impose a \$2.50 per day assessment on certain rental vehicle transactions in Michigan during the period October 1, 2009 through September 30, 2014. These assessments would be deposited into the Michigan Promotion Fund created by House Bill 5018. If a balance of more than \$40 million dollars (adjusted annually for inflation) remained in the Promotion Fund at the end of a state fiscal year, the rental vehicle assessment would be reduced by 50 cents the next fiscal year and new assessments would be deposited in the General Fund, not the Promotion Fund. If the balance exceeded \$40 million for two years in a row, the assessment would no longer be collected.

House Bill 5018 would create the "Michigan Promotion Fund" to be administered by the Michigan Strategic Fund. (MCL 125.20038) At least 75 percent of the money in this fund would be used for tourism promotion with up to 25 percent allowed be used for business development.

House Bill 5088 would send a specified portion of Michigan's use tax collections to the new Promotion Fund. (MCL 205.111) Generally, the growth in collections from the first four cents of the use tax on certain tourist-related businesses would flow to the Fund.

House Bill 5089 would send a specified portion of Michigan's sales tax collections to the new Promotion Fund. (MCL 205.75) Generally, the growth in collections from the first four cents of the sales tax on certain tourist-related businesses would flow to the Fund.

DETAILED SUMMARY:

House Bill 5017

The bill would create the "Michigan Promotion Assessment Act" to place an assessment of \$2.50 per day (or portion of a day) on each "assessable transaction" (meaning the lease or rental of a motor vehicle designed for eight or fewer passengers for a period of less than 31 days commencing at a specified facility). The assessment would apply to transactions from October 1, 2009 through September 30, 2014.

Covered sites. The bill would apply to covered motor vehicle rentals at any of the following facilities:

- A hotel, motel, or inn.
- A commercial airport (meaning a Michigan airport with regularly-scheduled commercial flights), or within five miles of a commercial airport.
- Another transportation facility (passenger train station, motor bus terminal, or harbor).
- A convention facility (meaning a facility designed for holding conventions, meetings, exhibits, trade shows, and similar events).

Covered motor vehicles. The term "motor vehicle" would mean a vehicle designed and used primarily as a passenger vehicle that is or would be required to be registered and titled under the Michigan Vehicle Code, except for road tractors, school buses, special mobile equipment, tank vehicles, truck tractors, implements of husbandry, or farm tractors, as those terms are defined in the Code. Further, as noted above, the bill would only apply to such vehicles designed for eight or fewer passengers.

Collection method; administration. The assessment would be collected at the same time and in the same manner as use and sales taxes and would be administered by the Department of Treasury.

Assessment as tax. The assessment is specifically described as a tax levied on a person engaged in the business of rental or lease of motor vehicles. The taxpayer could add the amount of the assessment to the price of the rental transaction.

Michigan Promotion Fund. The assessments would be deposited with the State Treasurer and credited to the Michigan Promotion Fund. If the balance in this fund at the end of any fiscal year exceeded 40 million dollars (adjusted annually for the rate of inflation), the assessment would be reduced by 50 cents in the next fiscal year, and the next fiscal year's assessments would be deposited in the General Fund, not the Michigan Promotion Fund. If the Promotion Fund had a year-end balance exceeding 40 million dollars for two consecutive fiscal years, the Department of Treasury would have to stop imposing and collecting the assessment.

Exclusion for rental vehicles used during repairs. The assessment would not apply to a motor vehicle provided at no charge to a person whose vehicle was being repaired,

adjusted, or serviced by the entity doing the repair or service work. Nor would it apply to a motor vehicle provided to a person whose motor vehicle was being repaired, adjusted, replaced, or serviced, and who submits an insurance claim accident report, or written estimate from a motor vehicle repair facility dated within seven days of the lease or rental of a motor vehicle.

House Bill 5018

This bill would add a new Chapter 3a in the Michigan Strategic Fund Act to create and govern the Michigan Promotion Fund.

Legislative intent. The bill designates the promotion of Michigan and the creation of jobs as a public purpose and of paramount concern in the interest of the health, safety, and general welfare of the citizens of the state, and expresses the intent that economic benefits and jobs resulting from the legislation accrue substantially within Michigan.

Classification of activities under the new chapter. Activities authorized under Chapter 3a would not be considered a project, economic development project, or a product assisted by the fund for purposes of Chapter 1 or 2 of the Michigan Strategic Fund Act.

Michigan Promotion Fund. The Michigan Promotion Fund would be created as a separate fund in the state treasury to be administered by the Michigan Strategic Fund. The Michigan Promotion Fund would be used to promote economic development and job creation in Michigan through the promotion of tourism and business development. The State Treasurer would direct the fund's investment and credit the fund with its interest and earnings.

The State Treasurer would have to credit to the Promotion Fund all amounts designated for it (1) under Chapter 3a, (2) the Michigan Promotion Assessment Act (assessments on passenger vehicle rentals), (3) Section 21 of the Use Tax Act (the portion of use tax collections directed toward the fund under House Bill 5088), and (4) Section 25 of the General Sales Tax Act (the portion of sales tax collections directed toward the fund under House Bill 5089).

Deposits, funds granted, and gifts and donations received by the Promotion Fund would be available for disbursement when deposited and the Promotion Fund would not be required to maintain a minimum balance. Funds could be disbursed at any time upon request. Up to 25 percent of amounts credited to the fund could be used to promote business development, as opposed to tourism.

Money in the Promotion Fund at the end of a fiscal year would remain in it and not lapse to the state General Fund.

Powers and duties. The powers and duties of the Michigan Strategic Fund under this chapter would be exercised and performed by the Michigan Economic Development Corporation (MEDC).

General Fund. If the balance in the Michigan Promotion Fund at the end of any fiscal year exceeded \$40 million, adjusted annually for the rate of inflation, additional revenue received by the Fund under Chapter 3a during the next fiscal year would go to the General Fund, not the Michigan Promotion Fund.

Return-on-investment study. On January 1, 2013, and every three years thereafter, the MEDC would have to commission a return-on-investment study with an independent private entity covering the three previous calendar years. This study would have to be reported to the House, the Senate, and the Governor by July that year. If this study is not reported by the deadline, or if it shows that the funds disbursed under the Promotion Fund in those years had a ratio of return on investment of less than one for one, then the distributions to the Michigan Promotion Fund would cease.

House Bill 5088

The bill would amend the Use Tax Act to provide that any increase in the four-percent segment of use tax collections in a given fiscal year that relate directly or indirectly from the "sale of tourist-oriented goods and services," over the amount collected in the 2008 fiscal year, would be deposited by the Department of Treasury into the Michigan Promotion Fund (to be created by House Bill 5018). The comparison of the current fiscal year's amount with the 2008 amount would be done individually for each major tourism industry group identified in the bill.

Tourism businesses. The term "**sale of tourist-oriented goods and services**" would mean sales of goods and services by "tourism businesses." The term "**tourism businesses**" would mean those businesses registered with the Department of Treasury under specified standard industrial classification (SIC) codes.¹ Generally, they comprise:

- Eating places and places where alcohol is consumed.
- Hotels and motels.
- Rooming and boarding house.
- Camps and RV parks.
- Automotive and truck rental (without drivers).
- Theaters (except motion pictures), orchestras, and entertainers.

¹ The 14 SIC codes are: 581 (Class C tavern with liquor, food incidental), 582 (tavern with beer/wine only, food incidental), 583 (night clubs, cabarets, discotheques), 584 (hotel dining rooms), 585 (family restaurants and cafeterias), 586 (lunch counters, dairy bars, fast food, pizzerias), 587 (caterers, concessions, food vending machines), 701 (hotels, motels, and tourist courts), 702 (rooming & boarding houses, bed and breakfasts), 703 (trailer parks & camps), 751 (car & truck rentals, without drivers), 792 (theatrical producers, bands, orchestras & entertainers), 794 (sports promoters & commercial operators, miscellaneous amusement & recreation services, health spas & gyms), and 842 (botanical and zoological gardens). The United States Department of Labor no longer uses these codes (it has moved to the 5-digit NAIC system), but when a Michigan business is created, it still registers for businesses taxes under SIC codes.

- Commercial sports promotions, recreation services, spas, and gyms.
- Botanical and zoological gardens.

Return-on-investment study. On January 1, 2013, and every three years thereafter, the MEDC would have to commission a return-on-investment study with an independent private entity, covering the three previous three calendar years, that would have to be reported to the Legislature and Governor by July of the year it was commissioned. If this study is reported not by the deadline, or if it shows that the funds disbursed under the Promotion Fund in those years had a ratio of return on investment of less than one for one, then the Treasury would have to stop sending the required use tax distributions to the Promotion fund on January 1 of the following year.

House Bill 5089

The bill would amend the General Sales Tax Act to provide that a certain portion of any sales tax collections remaining after other required allocations and distributions are made for revenue sharing, the State School Aid Fund, the Comprehensive Transportation Fund, and the Michigan Health Initiative Fund would go to the Michigan Promotion Fund.

The amount of sales tax collections that would go to the Promotion Fund would be an amount representing any increase in the four-percent segment of sales tax collections in a given fiscal year that relate directly or indirectly from the "sale of tourist-oriented goods and services," over the amount collected in the 2008 fiscal year. The comparison of the current fiscal year's amount with the 2008 amount would be done individually for each major tourism industry group identified in the bill.

The bill contains the same business listings as House Bill 5088 and a similar requirement for a return-on-investment study.

FISCAL IMPACT:

Rental Vehicle Assessment—The amount of revenue that would accrue from a \$2.50 per day assessment on rental vehicles would depend on the volume of vehicle rentals. According to the MEDC, the rental vehicle assessment is anticipated to generate \$13.0 million revenue annually for the Michigan Promotion Fund.

In the event that in the future the Michigan Promotion Fund accrued a balance greater than \$40.0 million at the end of a fiscal year, the General Fund could see increased revenue in the succeeding year. HB 5017 provides that under these circumstances, additional assessment collections in the next year would be deposited into the General Fund.

Sales and Use Tax—After removing the amount that is earmarked by the State Constitution, the increase in revenue from the first four percent of the sales and use taxes levied on the designated businesses was approximately \$8 million from FY 2007 to FY 2008.

[Note: However, current constitutional and statutory provisions already earmark over 100 percent of sales tax revenue from the first four percent of the tax. Any legislation seeking to earmark sales tax revenue would need to reduce either the existing statutory distributions or the amount that is deposited in the General Fund.]

Legislative Analyst: Shannan Kane
Fiscal Analyst: Viola Bay Wild
Jim Stansell

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.