

# Legislative Analysis



## MICHIGAN PROMOTION ASSESSMENT & FUND

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**House Bill 5017 (Substitute H-2)**  
**Sponsor: Rep. Woodrow Stanley**

**House Bill 5088 (Substitute H-1)**  
**Sponsor: Rep. Dan Scripps**

**House Bill 5018 without amendment**  
**Sponsor: Rep. David Nathan**

**House Bill 5089 (Substitute H-1)**  
**Sponsor: Rep. Gary McDowell**

**Committee: Tourism, Outdoor Recreation and Natural Resources**  
**Complete to 12-17-09**

## A SUMMARY OF HOUSE BILLS 5017, 5018, 5088, & 5089 AS REPORTED FROM COMMITTEE

This package of bills would create a Michigan Promotion Fund receiving revenue from a \$2.50 per day assessment on certain rental vehicles for five years and revenue from a specified portion of sales and use taxes levied on certain tourist-oriented goods and services. Generally speaking, the amount of sales and use tax collections going to the fund would be the amount by which the first four percent of sales and use taxes collected from certain tourist-oriented businesses exceeded the amount collected from them in 2008.

At least 75 percent of the fund would go for tourism promotion; up to 25 percent could be spent on business development. Among other things, the sponsors intend that the fund will be used for the "Pure Michigan" tourism marketing campaign run by Travel Michigan, a division of the Michigan Economic Development Corporation.

House Bill 5017 would place a \$2.50 per day assessment on certain rental vehicle transactions in Michigan between October 1, 2009, and September 30, 2014.

House Bill 5018 would create the "Michigan Promotion Fund" to be administered by the Michigan Strategic Fund.

House Bill 5088 would send a specified portion of Michigan's use tax collections on certain tourism-related businesses to the fund, require a return-on-investment study, and require the fund to promote annual motor sports events at the Michigan International Speedway.

House Bill 5089 would send a specified portion of Michigan's sales tax collections to the fund, require a return-on-investment study, and require the fund to promote annual motor sports events at the Michigan International Speedway.

House Bills 5017 and 5018 are tie-barred to the other bills in the package, meaning that they would not take effect unless all four bills were enacted. House Bills 5088 and 5089 have no tie-bars.

## **DETAILED SUMMARY:**

### **House Bill 5017 (Substitute H-2)**

The bill would create the "Michigan Promotion Assessment Act" placing an assessment of \$2.50 per day (or portion of a day) on each "assessable transaction" (meaning the lease or rental of a vehicle designed for eight or fewer passengers for fewer than 31 days from specified facilities, whether or not the vehicle is licensed in Michigan). The assessment would apply to transactions beginning after September 30, 2009, and 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 2.5 miles of a commercial airport.
- Other transportation facility (meaning a 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 passenger 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 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.

Deposit of assessments less costs of collection. The proceeds from collection of the assessments, less the costs of collection by the department, would be deposited with the State Treasurer and credited to the Michigan Promotion Fund.

Phase out of assessment if year-end fund balance exceeded \$40 million. If the balance in this fund at the end of any fiscal year exceeded \$40 million (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 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, serviced or replaced.

### **House Bill 5018, without amendment**

This bill would add a new Chapter 3a in the Michigan Strategic Fund Act creating the Michigan Promotion Fund.

Legislative intent. The bill declares that the promotion of Michigan and job creation under Chapter 3a are a public purpose and of paramount concern in the interest of the health, safety, and general welfare of Michigan citizens. The bill also expresses the intent that the 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 fund all amounts designated for it under (1) Chapter 3a, (2) the Michigan Promotion Assessment Act (the assessments on rental vehicles found in House Bill 5017), (3) Section 21 of the Use Tax Act (the portion of use tax collections sent to the fund under House Bill 5088), and (4) Section 25 of the General Sales Tax Act (the portion of sales tax collections sent to the fund under House Bill 5089).

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

Money in the fund at the end of a fiscal year would remain in it and would 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) as a joint exercise of power authorized under the Urban Cooperation Act of 1967 and a contractual interlocal agreement, effective April 5, 1999, between local participating economic development corporations and the fund.

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. The study would have to be reported to the House, the Senate, and the Governor by July 1 of the year it was commissioned. If the study were not reported by July 1, or if fund disbursements had a return on investment of less than one for one, then no more money would be sent to the fund.

#### **House Bill 5088 (Substitute H-1)**

The bill would require the "tourism-generated increase" in the four-percent segment of use tax collections in a fiscal year relating directly or indirectly from the sale of tourist-oriented goods and services over the amount collected in the 2008 fiscal year to be deposited by the Department of Treasury into the Michigan Promotion Fund. 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.

Michigan International Speedway. Notwithstanding any other provision of law to the contrary, a portion of the promotion fund would have to be used to promote annual motor sports events at a motor sports facility with over 70,000 fixed seats for race patrons participating in tourism promotion.

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.<sup>1</sup> Generally, they comprise:

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<sup>1</sup> 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

- 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.
- 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, to be reported to the Legislature and Governor by July 1 of the year it was commissioned. If this study were not reported by July 1, or if fund disbursements had a return on investment of less than one for one, then the Department of Treasury would have to stop sending the specified use tax distributions to the fund on January 1 of the following year.

#### **House Bill 5089 (Substitute H-1)**

The bill would require that a portion of any sales tax collections remaining after other required allocations and distributions were 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 portion of sales tax collections directed to the fund would be any increase in the four-percent segment of sales tax collections in a given fiscal year relating directly or indirectly to 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 codes as House Bill 5088 and a similar requirement for a return-on-investment study every three years.

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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 a SIC code.

Michigan International Speedway. House Bill 5089, like House Bill 5088, requires the fund to promote annual motor sports events at a motor sports facility with over 70,000 fixed seats for race patrons participating in tourism promotion.

## **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.]

## **POSITIONS:**

The following organizations testified in support or otherwise indicated support for the bills at one or both of the hearings held on June 16 and 23, 2009:

The Michigan Economic Development Corporation; the Michigan Department of Treasury; the Amway Grand Plaza Hotel; the Benzie County Chamber of Commerce; the Benzie County Convention and Visitors Bureau; the Flint Area Convention & Visitors Bureau and Travel Commission; the Frankenmuth Bavarian Inn; the General RV Center; the Grayling Visitors Bureau; the Grand Hotel, Mackinac Island; the Grand Traverse Resort and Spa; the Greater Lansing Convention & Visitors Bureau; the Great Lakes Bay Region Convention & Visitors Bureau (Saginaw, Bay, and Midland Counties); the Henry Ford; the Kalamazoo County Convention & Visitors Bureau; the Michigan Association of Convention & Visitors Bureaus; the Michigan Association of Recreation Vehicles and Campgrounds; the Michigan Golf Course Association; the Michigan Lake to Lake B & B Association; the Michigan Lodging and Tourism Association; the Michigan Retailers Association; the Michigan Snowsports Industry Association; the Northwest Michigan Regional Chamber; the Quality Suites Hotel, the Saginaw County Convention & Visitors Bureau; the Totem Pole Park LLC; the Tourism Industry Coalition of Michigan, the

Traverse City Convention & Visitors Bureau; the Upper Peninsula Travel & Recreation Association; the Ypsilanti Convention & Visitors Bureau;

Enterprise Rent-A-Car testified in opposition to House Bill 5017. (6-23-09)

The Michigan Municipal League and Michigan Townships Association testified in opposition to House Bill 5089 because 21.3 percent of sales tax collections at the four percent rate is dedicated to statutory revenue sharing under the Revenue Sharing Act. If this bill were adopted, we would have two different laws dedicating the same dollars to two different programs. (6-23-09)

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■ 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.