

1 **NEW CONVENTION FACILITY DEVELOPMENT INCENTIVE**

2 **PROVISIONS**

3 2014 GENERAL SESSION

4 STATE OF UTAH

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

6 Senate Sponsor: J. Stuart Adams

7 Cosponsor: Rebecca D. Lockhart

8

9 **LONG TITLE**

10 **General Description:**

11 This bill enacts provisions relating to incentives for the development of a new
12 convention facility.

13 **Highlighted Provisions:**

14 This bill:

- 15 ▶ enacts the New Convention Facility Development Incentive Act;
- 16 ▶ establishes a tax credit for the owner of a new convention hotel or a local
17 government entity, under certain circumstances, in the amount of state and local
18 sales tax revenue generated from sales related to the construction of a new
19 convention hotel and from sales on hotel property, and other local taxes;
- 20 ▶ establishes requirements and criteria for qualifying for a tax credit;
- 21 ▶ establishes a process for applying for and the issuance of a tax credit certificate,
22 including an agreement between the Governor's Office of Economic Development
23 and the hotel owner or local government in which the hotel is located;
- 24 ▶ authorizes a community development and renewal agency of a host local
25 government to receive incremental property tax revenue generated from hotel
26 property during the eligibility period;
- 27 ▶ limits how money derived from a tax credit and incremental property tax revenue
28 may be spent;

- 29 ▶ establishes an independent review committee to review tax credit applications;
- 30 ▶ grants the Governor's Office of Economic Development rulemaking authority to
- 31 carry out its responsibilities under and to implement provisions of this bill;
- 32 ▶ requires a county in which a new convention hotel is located to make an annual
- 33 payment into the Stay Another Day and Bounce Back Account;
- 34 ▶ creates the Stay Another Day and Bounce Back Fund as an expendable special
- 35 revenue fund;
- 36 ▶ creates the Hotel Impact Mitigation Fund as an expendable special revenue fund;
- 37 and
- 38 ▶ modifies the duties and authority of the Board of Tourism Development.

39 **Money Appropriated in this Bill:**

40 None

41 **Other Special Clauses:**

42 This bill provides effective dates.

43 **Utah Code Sections Affected:**

44 AMENDS:

45 **59-12-103 (Effective 07/01/14)**, as last amended by Laws of Utah 2013, Chapters 150

46 and 227

47 **63I-1-263**, as last amended by Laws of Utah 2013, Chapters 28, 62, 101, 167, 250, and

48 413

49 **63M-1-1403**, as renumbered and amended by Laws of Utah 2008, Chapter 382

50 ENACTS:

51 **17-31-9**, Utah Code Annotated 1953

52 **59-7-616**, Utah Code Annotated 1953

53 **59-10-1110**, Utah Code Annotated 1953

54 **63M-1-3401**, Utah Code Annotated 1953

55 **63M-1-3402**, Utah Code Annotated 1953

56 **63M-1-3403**, Utah Code Annotated 1953

- 57 [63M-1-3404](#), Utah Code Annotated 1953
- 58 [63M-1-3405](#), Utah Code Annotated 1953
- 59 [63M-1-3406](#), Utah Code Annotated 1953
- 60 [63M-1-3407](#), Utah Code Annotated 1953
- 61 [63M-1-3408](#), Utah Code Annotated 1953
- 62 [63M-1-3409](#), Utah Code Annotated 1953
- 63 [63M-1-3410](#), Utah Code Annotated 1953
- 64 [63M-1-3411](#), Utah Code Annotated 1953
- 65 [63M-1-3412](#), Utah Code Annotated 1953
- 66 [63M-1-3413](#), Utah Code Annotated 1953

67

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

69 Section 1. Section **17-31-9** is enacted to read:

70 **17-31-9. Payment to Stay Another Day and Bounce Back Fund and Hotel Impact**
71 **Mitigation Fund.**

72 A county in which a qualified hotel, as defined in Section [63M-1-3402](#), is located shall:

73 (1) make an annual payment to the Division of Finance:

74 (a) for deposit into the Stay Another Day and Bounce Back Fund, established in
75 Section [63M-1-3411](#);

76 (b) for any year in which the Governor's Office of Economic Development issues a tax
77 credit certificate, as defined in Section [63M-1-3402](#); and

78 (c) in the amount of 5% of the state portion, as defined in Section [63M-1-3402](#); and

79 (2) make payments to the Division of Finance:

80 (a) for deposit into the Hotel Impact Mitigation Fund, created in Section [63M-1-3412](#);

81 (b) for each year described in Subsection [63M-1-3412\(5\)\(a\)\(ii\)](#) during which the
82 balance of the Hotel Impact Mitigation Fund, defined in Section [63M-1-3412](#), is less than
83 \$2,100,000 before any payment for that year under Subsection [63M-1-3412\(5\)\(a\)](#); and

84 (c) in the amount of the difference between \$2,100,000 and the balance of the Hotel

85 Impact Mitigation Fund, defined in Section 63M-1-3412, before any payment for that year
86 under Subsection 63M-1-3412(5)(a).

87 Section 2. Section 59-7-616 is enacted to read:

88 **59-7-616. Refundable tax credit for certain business entities.**

89 (1) As used in this section:

90 (a) "Office" means the Governor's Office of Economic Development.

91 (b) "Pass-through entity" has the same meaning as defined in Section 59-10-1402.

92 (c) "Pass-through entity taxpayer" has the same meaning as defined in Section
93 59-10-1402.

94 (d) "Tax credit certificate" has the same meaning as defined in Section 63M-1-3402.

95 (e) "Tax credit recipient" has the same meaning as defined in Section 63M-1-3402.

96 (2) (a) Subject to the other provisions of this section, a tax credit recipient that is a
97 corporation may claim a refundable tax credit as provided in Subsection (3).

98 (b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass
99 through to one or more pass-through entity taxpayers of the pass-through entity, in accordance
100 with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a
101 refundable tax credit that the tax credit recipient could otherwise claim under this section.

102 (3) The amount of a tax credit is the amount listed as the tax credit amount on the tax
103 credit certificate that the office issues to the tax credit recipient for the taxable year.

104 (4) A tax credit recipient:

105 (a) may claim or pass through a tax credit in a taxable year other than the taxable year
106 during which the tax credit recipient has been issued a tax credit certificate; and

107 (b) may not claim a tax credit under both this section and Section 59-10-1110.

108 (5) (a) In accordance with any rules prescribed by the commission under Subsection
109 (5)(b), the commission shall:

110 (i) make a refund to a tax credit recipient that claims a tax credit under this section if
111 the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter;
112 and

113 (ii) transfer at least annually from the General Fund into the Education Fund an amount
114 equal to the amount of tax credit claimed under this section.

115 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
116 commission may make rules providing procedures for making:

117 (i) a refund to a tax credit recipient or pass-through entity taxpayer as required by
118 Subsection (5)(a)(i); or

119 (ii) transfers from the General Fund into the Education Fund as required by Subsection
120 (5)(a)(ii).

121 Section 3. Section **59-10-1110** is enacted to read:

122 **59-10-1110. Refundable tax credit for certain business entities.**

123 (1) As used in this section:

124 (a) "Office" means the Governor's Office of Economic Development.

125 (b) "Pass-through entity" has the same meaning as defined in Section [59-10-1402](#).

126 (c) "Pass-through entity taxpayer" has the same meaning as defined in Section
127 [59-10-1402](#).

128 (d) "Tax credit certificate" has the same meaning as defined in Section [63M-1-3402](#).

129 (e) "Tax credit recipient" has the same meaning as defined in Section [63M-1-3402](#).

130 (2) (a) Subject to the other provisions of this section, a tax credit recipient may claim a
131 refundable tax credit as provided in Subsection (3).

132 (b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass
133 through to one or more pass-through entity taxpayers of the pass-through entity, in accordance
134 with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a
135 refundable tax credit that the tax credit recipient could otherwise claim under this section.

136 (3) The amount of a tax credit is the amount listed as the tax credit amount on the tax
137 credit certificate that the office issues to the tax credit recipient for the taxable year.

138 (4) A tax credit recipient:

139 (a) may claim or pass through a tax credit in a taxable year other than the taxable year
140 during which the tax credit recipient has been issued a tax credit certificate; and

141 (b) may not claim a tax credit under both this section and Section 59-7-616.
 142 (5) (a) In accordance with any rules prescribed by the commission under Subsection
 143 (5)(b), the commission shall:
 144 (i) make a refund to a tax credit recipient that claims a tax credit under this section if
 145 the amount of the tax credit exceeds the tax credit recipient's tax liability under this chapter;
 146 and
 147 (ii) transfer at least annually from the General Fund into the Education Fund an amount
 148 equal to the amount of tax credit claimed under this section.
 149 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 150 commission may make rules providing procedures for making:
 151 (i) a refund to a tax credit recipient or pass-through entity taxpayer as required by
 152 Subsection (5)(a)(i); or
 153 (ii) transfers from the General Fund into the Education Fund as required by Subsection
 154 (5)(a)(ii).

155 Section 4. Section **59-12-103 (Effective 07/01/14)** is amended to read:
 156 **59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --**
 157 **Use of sales and use tax revenues.**

158 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
 159 charged for the following transactions:
 160 (a) retail sales of tangible personal property made within the state;
 161 (b) amounts paid for:
 162 (i) telecommunications service, other than mobile telecommunications service, that
 163 originates and terminates within the boundaries of this state;
 164 (ii) mobile telecommunications service that originates and terminates within the
 165 boundaries of one state only to the extent permitted by the Mobile Telecommunications
 166 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
 167 (iii) an ancillary service associated with a:
 168 (A) telecommunications service described in Subsection (1)(b)(i); or

- 169 (B) mobile telecommunications service described in Subsection (1)(b)(ii);
- 170 (c) sales of the following for commercial use:
 - 171 (i) gas;
 - 172 (ii) electricity;
 - 173 (iii) heat;
 - 174 (iv) coal;
 - 175 (v) fuel oil; or
 - 176 (vi) other fuels;
- 177 (d) sales of the following for residential use:
 - 178 (i) gas;
 - 179 (ii) electricity;
 - 180 (iii) heat;
 - 181 (iv) coal;
 - 182 (v) fuel oil; or
 - 183 (vi) other fuels;
- 184 (e) sales of prepared food;
- 185 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 186 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 187 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 188 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 189 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 190 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 191 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 192 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 193 exhibition, cultural, or athletic activity;
- 194 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 195 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
 - 196 (i) the tangible personal property; and

197 (ii) parts used in the repairs or renovations of the tangible personal property described
198 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
199 of that tangible personal property;

200 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
201 assisted cleaning or washing of tangible personal property;

202 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
203 accommodations and services that are regularly rented for less than 30 consecutive days;

204 (j) amounts paid or charged for laundry or dry cleaning services;

205 (k) amounts paid or charged for leases or rentals of tangible personal property if within
206 this state the tangible personal property is:

207 (i) stored;

208 (ii) used; or

209 (iii) otherwise consumed;

210 (l) amounts paid or charged for tangible personal property if within this state the
211 tangible personal property is:

212 (i) stored;

213 (ii) used; or

214 (iii) consumed; and

215 (m) amounts paid or charged for a sale:

216 (i) (A) of a product transferred electronically; or

217 (B) of a repair or renovation of a product transferred electronically; and

218 (ii) regardless of whether the sale provides:

219 (A) a right of permanent use of the product; or

220 (B) a right to use the product that is less than a permanent use, including a right:

221 (I) for a definite or specified length of time; and

222 (II) that terminates upon the occurrence of a condition.

223 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
224 is imposed on a transaction described in Subsection (1) equal to the sum of:

225 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
226 (A) 4.70%; and
227 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
228 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
229 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
230 State Sales and Use Tax Act; and
231 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
232 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
233 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
234 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
235 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
236 transaction under this chapter other than this part.
237 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
238 on a transaction described in Subsection (1)(d) equal to the sum of:
239 (i) a state tax imposed on the transaction at a tax rate of 2%; and
240 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
241 transaction under this chapter other than this part.
242 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
243 on amounts paid or charged for food and food ingredients equal to the sum of:
244 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
245 a tax rate of 1.75%; and
246 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
247 amounts paid or charged for food and food ingredients under this chapter other than this part.
248 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
249 tangible personal property other than food and food ingredients, a state tax and a local tax is
250 imposed on the entire bundled transaction equal to the sum of:
251 (A) a state tax imposed on the entire bundled transaction equal to the sum of:
252 (I) the tax rate described in Subsection (2)(a)(i)(A); and

253 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
254 Sales and Use Tax Act, if the location of the transaction as determined under Sections
255 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
256 Additional State Sales and Use Tax Act; and

257 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
258 Sales and Use Tax Act, if the location of the transaction as determined under Sections
259 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
260 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

261 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
262 described in Subsection (2)(a)(ii).

263 (ii) If an optional computer software maintenance contract is a bundled transaction that
264 consists of taxable and nontaxable products that are not separately itemized on an invoice or
265 similar billing document, the purchase of the optional computer software maintenance contract
266 is 40% taxable under this chapter and 60% nontaxable under this chapter.

267 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
268 transaction described in Subsection (2)(d)(i) or (ii):

269 (A) if the sales price of the bundled transaction is attributable to tangible personal
270 property, a product, or a service that is subject to taxation under this chapter and tangible
271 personal property, a product, or service that is not subject to taxation under this chapter, the
272 entire bundled transaction is subject to taxation under this chapter unless:

273 (I) the seller is able to identify by reasonable and verifiable standards the tangible
274 personal property, product, or service that is not subject to taxation under this chapter from the
275 books and records the seller keeps in the seller's regular course of business; or

276 (II) state or federal law provides otherwise; or

277 (B) if the sales price of a bundled transaction is attributable to two or more items of
278 tangible personal property, products, or services that are subject to taxation under this chapter
279 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
280 higher tax rate unless:

281 (I) the seller is able to identify by reasonable and verifiable standards the tangible
282 personal property, product, or service that is subject to taxation under this chapter at the lower
283 tax rate from the books and records the seller keeps in the seller's regular course of business; or

284 (II) state or federal law provides otherwise.

285 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
286 seller's regular course of business includes books and records the seller keeps in the regular
287 course of business for nontax purposes.

288 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
289 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
290 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
291 of tangible personal property, other property, a product, or a service that is not subject to
292 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
293 the seller, at the time of the transaction:

294 (A) separately states the portion of the transaction that is not subject to taxation under
295 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

296 (B) is able to identify by reasonable and verifiable standards, from the books and
297 records the seller keeps in the seller's regular course of business, the portion of the transaction
298 that is not subject to taxation under this chapter.

299 (ii) A purchaser and a seller may correct the taxability of a transaction if:

300 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
301 the transaction that is not subject to taxation under this chapter was not separately stated on an
302 invoice, bill of sale, or similar document provided to the purchaser because of an error or
303 ignorance of the law; and

304 (B) the seller is able to identify by reasonable and verifiable standards, from the books
305 and records the seller keeps in the seller's regular course of business, the portion of the
306 transaction that is not subject to taxation under this chapter.

307 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
308 in the seller's regular course of business includes books and records the seller keeps in the

309 regular course of business for nontax purposes.

310 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
311 personal property, products, or services that are subject to taxation under this chapter at
312 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
313 unless the seller, at the time of the transaction:

314 (A) separately states the items subject to taxation under this chapter at each of the
315 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

316 (B) is able to identify by reasonable and verifiable standards the tangible personal
317 property, product, or service that is subject to taxation under this chapter at the lower tax rate
318 from the books and records the seller keeps in the seller's regular course of business.

319 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
320 seller's regular course of business includes books and records the seller keeps in the regular
321 course of business for nontax purposes.

322 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
323 rate imposed under the following shall take effect on the first day of a calendar quarter:

324 (i) Subsection (2)(a)(i)(A);

325 (ii) Subsection (2)(b)(i);

326 (iii) Subsection (2)(c)(i); or

327 (iv) Subsection (2)(d)(i)(A)(I).

328 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
329 begins on or after the effective date of the tax rate increase if the billing period for the
330 transaction begins before the effective date of a tax rate increase imposed under:

331 (A) Subsection (2)(a)(i)(A);

332 (B) Subsection (2)(b)(i);

333 (C) Subsection (2)(c)(i); or

334 (D) Subsection (2)(d)(i)(A)(I).

335 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
336 statement for the billing period is rendered on or after the effective date of the repeal of the tax

337 or the tax rate decrease imposed under:

338 (A) Subsection (2)(a)(i)(A);

339 (B) Subsection (2)(b)(i);

340 (C) Subsection (2)(c)(i); or

341 (D) Subsection (2)(d)(i)(A)(I).

342 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
343 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
344 change in a tax rate takes effect:

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

346 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

347 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

348 (A) Subsection (2)(a)(i)(A);

349 (B) Subsection (2)(b)(i);

350 (C) Subsection (2)(c)(i); or

351 (D) Subsection (2)(d)(i)(A)(I).

352 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
353 the commission may by rule define the term "catalogue sale."

354 (3) (a) The following state taxes shall be deposited into the General Fund:

355 (i) the tax imposed by Subsection (2)(a)(i)(A);

356 (ii) the tax imposed by Subsection (2)(b)(i);

357 (iii) the tax imposed by Subsection (2)(c)(i); or

358 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

359 (b) The following local taxes shall be distributed to a county, city, or town as provided
360 in this chapter:

361 (i) the tax imposed by Subsection (2)(a)(ii);

362 (ii) the tax imposed by Subsection (2)(b)(ii);

363 (iii) the tax imposed by Subsection (2)(c)(ii); and

364 (iv) the tax imposed by Subsection (2)(d)(i)(B).

365 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
366 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
367 through (g):

368 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

369 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

370 (B) for the fiscal year; or

371 (ii) \$17,500,000.

372 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
373 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
374 Department of Natural Resources to:

375 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
376 protect sensitive plant and animal species; or

377 (B) award grants, up to the amount authorized by the Legislature in an appropriations
378 act, to political subdivisions of the state to implement the measures described in Subsections
379 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

380 (ii) Money transferred to the Department of Natural Resources under Subsection
381 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
382 person to list or attempt to have listed a species as threatened or endangered under the
383 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

384 (iii) At the end of each fiscal year:

385 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
386 Conservation and Development Fund created in Section 73-10-24;

387 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
388 Program Subaccount created in Section 73-10c-5; and

389 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
390 Program Subaccount created in Section 73-10c-5.

391 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
392 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

393 created in Section 4-18-106.

394 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
395 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
396 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
397 water rights.

398 (ii) At the end of each fiscal year:

399 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
400 Conservation and Development Fund created in Section 73-10-24;

401 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
402 Program Subaccount created in Section 73-10c-5; and

403 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
404 Program Subaccount created in Section 73-10c-5.

405 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
406 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development
407 Fund created in Section 73-10-24 for use by the Division of Water Resources.

408 (ii) In addition to the uses allowed of the Water Resources Conservation and
409 Development Fund under Section 73-10-24, the Water Resources Conservation and
410 Development Fund may also be used to:

411 (A) conduct hydrologic and geotechnical investigations by the Division of Water
412 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
413 quantifying surface and ground water resources and describing the hydrologic systems of an
414 area in sufficient detail so as to enable local and state resource managers to plan for and
415 accommodate growth in water use without jeopardizing the resource;

416 (B) fund state required dam safety improvements; and

417 (C) protect the state's interest in interstate water compact allocations, including the
418 hiring of technical and legal staff.

419 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
420 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount

421 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

422 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
423 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount
424 created in Section 73-10c-5 for use by the Division of Drinking Water to:

425 (i) provide for the installation and repair of collection, treatment, storage, and
426 distribution facilities for any public water system, as defined in Section 19-4-102;

427 (ii) develop underground sources of water, including springs and wells; and

428 (iii) develop surface water sources.

429 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
430 2006, the difference between the following amounts shall be expended as provided in this
431 Subsection (5), if that difference is greater than \$1:

432 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
433 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

434 (ii) \$17,500,000.

435 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

436 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
437 credits; and

438 (B) expended by the Department of Natural Resources for watershed rehabilitation or
439 restoration.

440 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
441 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
442 created in Section 73-10-24.

443 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
444 remaining difference described in Subsection (5)(a) shall be:

445 (A) transferred each fiscal year to the Division of Water Resources as dedicated
446 credits; and

447 (B) expended by the Division of Water Resources for cloud-seeding projects
448 authorized by Title 73, Chapter 15, Modification of Weather.

449 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
450 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
451 created in Section 73-10-24.

452 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
453 remaining difference described in Subsection (5)(a) shall be deposited into the Water
454 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
455 Division of Water Resources for:

456 (i) preconstruction costs:

457 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
458 26, Bear River Development Act; and

459 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
460 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

461 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
462 Chapter 26, Bear River Development Act;

463 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
464 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

465 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and
466 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

467 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
468 Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be
469 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
470 incurred for employing additional technical staff for the administration of water rights.

471 (f) At the end of each fiscal year, any unexpended dedicated credits described in
472 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
473 Fund created in Section 73-10-24.

474 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
475 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
476 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in

477 the Transportation Fund created by Section 72-2-102.

478 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of
479 Finance shall deposit into the Transportation Investment Fund of 2005 created in Section
480 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
481 by a 1/64% tax rate on the taxable transactions under Subsection (1).

482 (8) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
483 Subsection (7), and subject to Subsection (8)(b), for a fiscal year beginning on or after July 1,
484 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
485 created by Section 72-2-124:

486 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
487 the revenues collected from the following taxes, which represents a portion of the
488 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
489 on vehicles and vehicle-related products:

- 490 (A) the tax imposed by Subsection (2)(a)(i)(A);
- 491 (B) the tax imposed by Subsection (2)(b)(i);
- 492 (C) the tax imposed by Subsection (2)(c)(i); and
- 493 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

494 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
495 current fiscal year from the sales and use taxes described in Subsections (8)(a)(i)(A) through
496 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
497 (8)(a)(i)(A) through (D) in the 2010-11 fiscal year.

498 (b) (i) Subject to Subsections (8)(b)(ii) and (iii), in any fiscal year that the portion of
499 the sales and use taxes deposited under Subsection (8)(a) represents an amount that is a total
500 lower percentage of the sales and use taxes described in Subsections (8)(a)(i)(A) through (D)
501 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
502 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
503 (8)(a) equal to the product of:

- 504 (A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the

505 previous fiscal year; and

506 (B) the total sales and use tax revenue generated by the taxes described in Subsections
507 (8)(a)(i)(A) through (D) in the current fiscal year.

508 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
509 Subsection (8)(a) would exceed 17% of the revenues collected from the sales and use taxes
510 described in Subsections (8)(a)(i)(A) through (D) in the current fiscal year, the Division of
511 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
512 Subsections (8)(a)(i)(A) through (D) for the current fiscal year under Subsection (8)(a).

513 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
514 from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) was deposited
515 under Subsection (8)(a), the Division of Finance shall annually deposit 17% of the revenues
516 collected from the sales and use taxes described in Subsections (8)(a)(i)(A) through (D) in the
517 current fiscal year under Subsection (8)(a).

518 (9) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
519 Subsections (7) and (8), for a fiscal year beginning on or after July 1, 2012, the Division of
520 Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under
521 Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section
522 [72-2-124](#).

523 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
524 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
525 created by Section [35A-8-1009](#) and expended as provided in Section [35A-8-1009](#).

526 (11) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b),
527 and in addition to any amounts deposited under Subsections (7), (8), and (9), beginning on July
528 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
529 created by Section [72-2-124](#) the amount of tax revenue generated by a .025% tax rate on the
530 transactions described in Subsection (1).

531 (b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into
532 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or

533 charged for food and food ingredients, except for tax revenue generated by a bundled
534 transaction attributable to food and food ingredients and tangible personal property other than
535 food and food ingredients described in Subsection (2)(d).

536 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
537 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
538 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
539 .025% tax rate on the transactions described in Subsection (1) to be expended to address
540 chokepoints in construction management.

541 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into
542 the Transportation Fund any tax revenue generated by amounts paid or charged for food and
543 food ingredients, except for tax revenue generated by a bundled transaction attributable to food
544 and food ingredients and tangible personal property other than food and food ingredients
545 described in Subsection (2)(d).

546 (13) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
547 fiscal year during which the Division of Finance receives notice under Subsection
548 63M-1-3410(3) that construction on a qualified hotel, as defined in Section 63M-1-3402, has
549 begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit
550 \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel
551 Impact Mitigation Fund, created in Section 63M-1-3412.

552 [~~(13)~~] (14) Notwithstanding Subsections (4) through [~~(12)~~] (13), an amount required to
553 be expended or deposited in accordance with Subsections (4) through [~~(12)~~] (13) may not
554 include an amount the Division of Finance deposits in accordance with Section 59-12-103.2.

555 Section 5. Section 63I-1-263 is amended to read:

556 **63I-1-263. Repeal dates, Titles 63A to 63M.**

557 (1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to
558 any public school district which chooses to participate, is repealed July 1, 2016.

559 (2) Subsections 63A-5-104(4)(d) and (e) are repealed on July 1, 2014.

560 (3) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

561 (4) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
562 1, 2018.

563 (5) Section [53B-24-402](#), rural residency training program, is repealed July 1, 2015.

564 (6) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is
565 repealed July 1, 2014.

566 (7) Title 63C, Chapter 14, Federal Funds Commission, is repealed July 1, 2018.

567 (8) Subsection [63G-6a-1402\(7\)](#) authorizing certain transportation agencies to award a
568 contract for a design-build transportation project in certain circumstances, is repealed July 1,
569 2015.

570 (9) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1,
571 2020.

572 (10) The Resource Development Coordinating Committee, created in Section
573 [63J-4-501](#), is repealed July 1, 2015.

574 (11) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

575 (12) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act, is
576 repealed January 1, 2021.

577 (b) Subject to Subsection (12)(c), Sections [59-7-610](#) and [59-10-1007](#) regarding tax
578 credits for certain persons in recycling market development zones, are repealed for taxable
579 years beginning on or after January 1, 2021.

580 (c) A person may not claim a tax credit under Section [59-7-610](#) or [59-10-1007](#):

581 (i) for the purchase price of machinery or equipment described in Section [59-7-610](#) or
582 [59-10-1007](#), if the machinery or equipment is purchased on or after January 1, 2021; or

583 (ii) for an expenditure described in Subsection [59-7-610\(1\)\(b\)](#) or [59-10-1007\(1\)\(b\)](#), if
584 the expenditure is made on or after January 1, 2021.

585 (d) Notwithstanding Subsections (12)(b) and (c), a person may carry forward a tax
586 credit in accordance with Section [59-7-610](#) or [59-10-1007](#) if:

587 (i) the person is entitled to a tax credit under Section [59-7-610](#) or [59-10-1007](#); and

588 (ii) (A) for the purchase price of machinery or equipment described in Section

589 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
590 2020; or

591 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
592 expenditure is made on or before December 31, 2020.

593 (13) Section 63M-1-3412 is repealed on July 1, 2021.

594 [~~(13)~~] (14) (a) Section 63M-1-2507, Health Care Compact, is repealed on July 1, 2014.

595 (b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

596 (A) direct the Health System Reform Task Force to evaluate the issues listed in
597 Subsection [~~(13)~~] (14)(b)(ii), and by January 1, 2013, develop and recommend criteria for the
598 Legislature to use to negotiate the terms of the Health Care Compact; and

599 (B) prior to July 1, 2014, seek amendments to the Health Care Compact among the
600 member states that the Legislature determines are appropriate after considering the
601 recommendations of the Health System Reform Task Force.

602 (ii) The Health System Reform Task Force shall evaluate and develop criteria for the
603 Legislature regarding:

604 (A) the impact of the Supreme Court ruling on the Affordable Care Act;

605 (B) whether Utah is likely to be required to implement any part of the Affordable Care
606 Act prior to negotiating the compact with the federal government, such as Medicaid expansion
607 in 2014;

608 (C) whether the compact's current funding formula, based on adjusted 2010 state
609 expenditures, is the best formula for Utah and other state compact members to use for
610 establishing the block grants from the federal government;

611 (D) whether the compact's calculation of current year inflation adjustment factor,
612 without consideration of the regional medical inflation rate in the current year, is adequate to
613 protect the state from increased costs associated with administering a state based Medicaid and
614 a state based Medicare program;

615 (E) whether the state has the flexibility it needs under the compact to implement and
616 fund state based initiatives, or whether the compact requires uniformity across member states

617 that does not benefit Utah;

618 (F) whether the state has the option under the compact to refuse to take over the federal
619 Medicare program;

620 (G) whether a state based Medicare program would provide better benefits to the
621 elderly and disabled citizens of the state than a federally run Medicare program;

622 (H) whether the state has the infrastructure necessary to implement and administer a
623 better state based Medicare program;

624 (I) whether the compact appropriately delegates policy decisions between the
625 legislative and executive branches of government regarding the development and
626 implementation of the compact with other states and the federal government; and

627 (J) the impact on public health activities, including communicable disease surveillance
628 and epidemiology.

629 ~~[(14)]~~ (15) The Crime Victim Reparations and Assistance Board, created in Section
630 [63M-7-504](#), is repealed July 1, 2017.

631 ~~[(15)]~~ (16) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
632 2017.

633 Section 6. Section **63M-1-1403** is amended to read:

634 **63M-1-1403. Board duties.**

635 (1) The board shall:

636 (a) have authority to approve a tourism program of out-of-state advertising, marketing,
637 and branding, taking into account the long-term strategic plan, economic trends, and
638 opportunities for tourism development on a statewide basis, as a condition of the distribution of
639 funds to the office from the Tourism Marketing Performance Account under Section
640 [63M-1-1406](#);

641 (b) have authority to approve a tourism program of advertising, marketing, and
642 branding of the state, taking into account the long-term strategic plan, economic trends, and
643 opportunities for tourism development on a statewide basis, as a condition of the distribution of
644 money to the office from the Stay Another Day and Bounce Back Account, created in Section

645 [63M-1-3411](#);

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

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

652 ~~[(d)]~~ (e) (i) advise the office in establishing a Cooperative Program from the money in
653 the Tourism Marketing Performance Account under Section [63M-1-1406](#) for use by cities,
654 counties, nonprofit destination marketing organizations, and similar public entities for the
655 purpose of supplementing money committed by these entities for advertising and promotion to
656 and for out-of-state residents to attract them to visit sites advertised by and attend events
657 sponsored by these entities;

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

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

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

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

666 (2) The board may:

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

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

672 (3) The board may not, except as otherwise provided in Subsection (1)(a), make policy

673 related to the management or operation of the office.

674 Section 7. Section **63M-1-3401** is enacted to read:

675 **Part 34. New Convention Facility Development Incentive Act**

676 **63M-1-3401. Title.**

677 This part is known as the "New Convention Facility Development Incentive Act."

678 Section 8. Section **63M-1-3402** is enacted to read:

679 **63M-1-3402. Definitions.**

680 As used in this part:

681 (1) "Agreement" means an agreement described in Section [63M-1-3403](#).

682 (2) "Commission" means the Utah State Tax Commission.

683 (3) "Community development and renewal agency" has the same meaning as defined in
684 Section [17C-1-102](#).

685 (4) "Eligibility period" means:

686 (a) the period that:

687 (i) begins the date construction of a qualified hotel begins; and

688 (ii) ends:

689 (A) for purposes of the state portion, 20 years after the date of initial occupancy of that
690 qualified hotel; or

691 (B) for purposes of the local portion, 25 years after the date of initial occupancy of that
692 hotel; or

693 (b) as provided in an agreement between the office and a qualified hotel owner or host
694 local government, a period that:

695 (i) begins no earlier than the date construction of a qualified hotel begins; and

696 (ii) is shorter than the period described in Subsection (4)(a).

697 (5) "Endorsement letter" means a letter:

698 (a) from the county in which a qualified hotel is located or is proposed to be located;

699 (b) signed by the county executive; and

700 (c) expressing the county's endorsement of a developer of a qualified hotel as meeting

701 all the county's criteria for receiving the county's endorsement.

702 (6) "Host agency" means the community development and renewal agency of the host
703 local government.

704 (7) "Host local government" means:

705 (a) a county that enters into an agreement with the office for the construction of a
706 qualified hotel within the unincorporated area of the county; or

707 (b) a city or town that enters into an agreement with the office for the construction of a
708 qualified hotel within the boundary of the city or town.

709 (8) "Hotel property" means a qualified hotel and any property that is included in the
710 same development as the qualified hotel, including convention, exhibit, and meeting space,
711 retail shops, restaurants, parking, and other ancillary facilities and amenities.

712 (9) "Incremental property tax revenue" means the amount of property tax revenue
713 generated from hotel property that equals the difference between:

714 (a) the amount of property tax revenue generated in any tax year by all taxing entities
715 from hotel property, using the current assessed value of the hotel property; and

716 (b) the amount of property tax revenue that would be generated that tax year by all
717 taxing entities from hotel property, using a base taxable value of the hotel property as
718 established by the county in which the hotel property is located.

719 (10) "Local portion" means:

720 (a) the portion of new tax revenue that is not the state portion; and

721 (b) incremental property tax revenue.

722 (11) "New tax revenue" means:

723 (a) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax
724 Act, on transactions occurring during the eligibility period as a result of the construction of the
725 hotel property, including purchases made by a qualified hotel owner and its subcontractors;

726 (b) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax
727 Act, on transactions occurring on hotel property during the eligibility period; and

728 (c) all new revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax

729 Act, on transactions by a third-party seller occurring other than on hotel property during the
730 eligibility period, if:

731 (i) the transaction is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act;
732 and

733 (ii) the third-party seller voluntarily consents to the disclosure of information to the
734 office, as provided in Subsection 63M-1-3405(1)(b)(i)(E).

735 (12) "Public infrastructure" means:

736 (a) water, sewer, storm drainage, electrical, telecommunications, and other similar
737 systems and lines;

738 (b) streets, roads, curbs, gutters, sidewalks, walkways, parking facilities, and public
739 transportation facilities; and

740 (c) other buildings, facilities, infrastructure, and improvements that benefit the public.

741 (13) "Qualified hotel" means a full-service hotel development constructed in the state
742 on or after July 1, 2014 that:

743 (a) requires a significant capital investment;

744 (b) includes at least 85 square feet of convention, exhibit, and meeting space per guest
745 room; and

746 (c) is located within 1,000 feet of a convention center that contains at least 500,000
747 square feet of convention, exhibit, and meeting space.

748 (14) "Qualified hotel owner" means a person who owns a qualified hotel.

749 (15) "Review committee" means the independent review committee established under
750 Section 63M-1-3404.

751 (16) "Significant capital investment" means an amount of at least \$200,000,000.

752 (17) "State portion" means the portion of new tax revenue that is attributable to a tax
753 imposed under Subsection 59-12-103(2)(a)(i)(A).

754 (18) "Tax credit" means a tax credit under Section 59-7-616 or 59-10-1110.

755 (19) "Tax credit applicant" means a qualified hotel owner or host local government
756 that:

757 (a) has entered into an agreement with the office; and
758 (b) pursuant to that agreement, submits an application for the issuance of a tax credit
759 certificate.

760 (20) "Tax credit certificate" means a certificate issued by the office that includes:

- 761 (a) the name of the tax credit recipient;
- 762 (b) the tax credit recipient's taxpayer identification number;
- 763 (c) the amount of the tax credit authorized under this part for a taxable year; and
- 764 (d) other information as determined by the office.

765 (21) "Tax credit recipient" means a tax credit applicant that has been issued a tax credit
766 certificate.

767 (22) "Third-party seller" means a person who is a seller in a transaction:

- 768 (a) occurring other than on hotel property;
- 769 (b) that is:
 - 770 (i) the sale, rental, or lease of a room or of convention or exhibit space or other
 - 771 facilities on hotel property; or
 - 772 (ii) the sale of tangible personal property or a service that is part of a bundled
 - 773 transaction, as defined in Section [59-12-102](#), with a sale, rental, or lease described in
 - 774 Subsection (22)(b)(i); and

775 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.

776 Section 9. Section **63M-1-3403** is enacted to read:

777 **63M-1-3403. Agreement for development of new convention hotel -- Tax credit**
778 **authorized -- Agreement requirements.**

779 (1) The office, with the board's advice, may enter into an agreement with a qualified
780 hotel owner or a host local government:

- 781 (a) for the development of a qualified hotel; and
- 782 (b) to authorize a tax credit:
 - 783 (i) to the qualified hotel owner or host local government, but not both;
 - 784 (ii) for a period not to exceed the eligibility period;

785 (iii) if:
786 (A) the county in which the qualified hotel is proposed to be located has issued an
787 endorsement letter endorsing the qualified hotel owner; and
788 (B) all applicable requirements of this part and the agreement are met; and
789 (iv) that is reduced by \$1,900,000 per year during the first two years of the eligibility
790 period, as described in Subsection (2)(c).
791 (2) An agreement shall:
792 (a) specify the requirements for a tax credit recipient to qualify for a tax credit;
793 (b) require compliance with the terms of the endorsement letter issued by the county in
794 which the qualified hotel is proposed to be located;
795 (c) require the amount of a tax credit listed in a tax credit certificate issued during the
796 first two years of the eligibility period to be reduced by \$1,900,000 per year;
797 (d) with respect to the state portion of any tax credit that the tax credit recipient may
798 receive during the eligibility period:
799 (i) specify the maximum dollar amount that the tax credit recipient may receive,
800 subject to a maximum of:
801 (A) for any taxable year, the amount of the state portion of new tax revenue in that
802 taxable year; and
803 (B) \$75,000,000 in the aggregate for any tax credit recipient during an eligibility
804 period, calculated as though the two \$1,900,000 reductions of the tax credit amount under
805 Subsection (1)(b)(iv) had not occurred; and
806 (ii) specify the maximum percentage of the state portion of new tax revenue that may
807 be used in calculating a tax credit that a tax credit recipient may receive during the eligibility
808 period for each taxable year and in the aggregate;
809 (e) establish a shorter period of time than the period described in Subsection
810 63M-1-3402(5)(a) during which the tax credit recipient may claim a tax credit or that the host
811 agency may be paid incremental property tax revenue, if the office and qualified hotel owner or
812 host local government agree to a shorter period of time;

813 (f) require the tax credit recipient to retain books and records supporting a claim for a
814 tax credit as required by Section 59-1-1406;

815 (g) allow the transfer of the agreement to a third party if the third party assumes all
816 liabilities and responsibilities in the agreement;

817 (h) limit the expenditure of funds received under a tax credit as provided in Section
818 63M-1-3412; and

819 (i) require the tax credit recipient to submit to any audit the office considers
820 appropriate for verification of any tax credit or claimed tax credit.

821 Section 10. Section **63M-1-3404** is enacted to read:

822 **63M-1-3404. Independent review committee.**

823 (1) In accordance with rules adopted by the office under Section 63M-1-3408, the
824 board shall establish a separate, independent review committee to:

825 (a) review each initial tax credit application submitted under this part for compliance
826 with the requirements of this part and the agreement; and

827 (b) consult with the office, as provided in this part.

828 (2) The review committee shall consist of:

829 (a) one member appointed by the director to represent the office;

830 (b) two members appointed by the mayor or chief executive of the county in which the
831 qualified hotel is located or proposed to be located;

832 (c) two members appointed by:

833 (i) the mayor of the municipality in which the qualified hotel is located or proposed to
834 be located, if the qualified hotel is located or proposed to be located within the boundary of a
835 municipality; or

836 (ii) the mayor or chief executive of the county in which the qualified hotel is located or
837 proposed to be located, in addition to the two members appointed under Subsection (2)(b), if
838 the qualified hotel is located or proposed to be located outside the boundary of a municipality;

839 (d) an individual representing the hotel industry, appointed by the Utah Hotel and
840 Lodging Association;

841 (e) an individual representing the commercial development and construction industry,
842 appointed by the president or chief executive officer of the local chamber of commerce;

843 (f) an individual representing the convention and meeting planners industry, appointed
844 by the president or chief executive officer of the local convention and visitors bureau; and

845 (g) one member appointed by the board.

846 (3) (a) A member serves an indeterminate term and may be removed from the review
847 committee by the appointing authority at any time.

848 (b) A vacancy may be filled in the same manner as an appointment under Subsection
849 (2).

850 (4) A member of the review committee may not be paid for serving on the review
851 committee and may not receive per diem or expense reimbursement.

852 (5) The office shall provide any necessary staff support to the review committee.

853 Section 11. Section **63M-1-3405** is enacted to read:

854 **63M-1-3405. Submission of written application for tax credit certificate --**

855 **Disclosure of tax returns and other information -- Determination of tax credit**
856 **application.**

857 (1) For each taxable year for which a tax credit applicant seeks the issuance of a tax
858 credit certificate, the tax credit applicant shall submit to the office:

859 (a) a written application for a tax credit certificate;

860 (b) (i) for an application submitted by a qualified hotel owner:

861 (A) a certification by the individual signing the application that the individual is duly
862 authorized to sign the application on behalf of the qualified hotel owner;

863 (B) documentation of the new tax revenue generated during the preceding year;

864 (C) a document in which the qualified hotel owner expressly directs and authorizes the
865 commission to disclose to the office the qualified hotel owner's tax returns and other

866 information that would otherwise be subject to confidentiality under Section [59-1-403](#) or
867 Section 6103, Internal Revenue Code;

868 (D) a document in which the qualified hotel's direct vendors, lessees, or subcontractors,

869 as applicable, expressly direct and authorize the commission to disclose to the office the tax
870 returns and other information of those vendors, lessees, or subcontractors that would otherwise
871 be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

872 (E) a document in which a third-party seller expressly and voluntarily directs and
873 authorizes the commission to disclose to the office the third-party seller's tax returns and other
874 information that would otherwise be subject to confidentiality under Section 59-1-403 or
875 Section 6103, Internal Revenue Code; and

876 (F) documentation verifying that the qualified hotel owner is in compliance with the
877 terms of the agreement;

878 (ii) for an application submitted by a host local government, documentation of the new
879 tax revenue generated during the preceding year;

880 (c) if the host local government intends to assign the tax credit sought in the tax credit
881 application to a community development and renewal agency:

882 (i) the taxpayer identification number of the community development and renewal
883 agency; and

884 (ii) a document signed by the governing body members of the community development
885 and renewal agency that expressly directs and authorizes the commission to disclose to the
886 office the agency's tax returns and other information that would otherwise be subject to
887 confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

888 (d) a statement provided by an independent certified public accountant, at the tax credit
889 applicant's expense, attesting to the accuracy of the documentation of new tax revenue.

890 (2) (a) The office shall submit to the commission the documents described in
891 Subsections (1)(b)(i)(C), (D), and (E) and (1)(c)(ii) authorizing disclosure of the tax returns and
892 other information.

893 (b) Upon receipt of the documents described in Subsection (2)(a), the commission shall
894 provide to the office the tax returns and other information described in those documents.

895 (3) If the office determines that the tax returns and other information is inadequate to
896 validate the issuance of a tax credit certificate, the office shall inform the tax credit applicant

897 that the tax returns and other information were inadequate and request the tax credit applicant
898 to submit additional documentation to validate the issuance of a tax credit certificate.

899 (4) If the office determines that the returns and other information, including any
900 additional documentation provided under Subsection (3), provide reasonable justification for
901 the issuance of a tax credit certificate, the office shall:

902 (a) determine the amount of the tax credit to be listed on the tax credit certificate;

903 (b) issue a tax credit certificate to the tax credit applicant for the amount of that tax
904 credit; and

905 (c) provide a copy of the tax credit certificate to the commission.

906 Section 12. Section **63M-1-3406** is enacted to read:

907 **63M-1-3406. Effect of tax credit certificate -- Retaining tax credit certificate.**

908 (1) A person may not claim a tax credit unless the office has issued the person a tax
909 credit certificate.

910 (2) A tax credit recipient may claim a tax credit in the amount of the tax credit stated in
911 a tax credit certificate.

912 (3) A tax credit recipient shall retain the tax credit certificate in accordance with the
913 requirements of Section [59-1-1406](#) for retaining books and records.

914 (4) The amount of a tax credit indicated on a tax credit certificate issued during the
915 eligibility period may not exceed the amount of eligible new tax revenue generated during the
916 taxable year preceding the taxable year for which the tax credit certificate is issued.

917 Section 13. Section **63M-1-3407** is enacted to read:

918 **63M-1-3407. Assigning tax credit.**

919 (1) A host local government that enters into an agreement with the office may, by
920 resolution, assign a tax credit to a community development and renewal agency, in accordance
921 with rules adopted by the office.

922 (2) A host local government that adopts a resolution assigning a tax credit under
923 Subsection (1) shall provide a copy of the resolution to the office and the commission.

924 Section 14. Section **63M-1-3408** is enacted to read:

925 **63M-1-3408. Payment of incremental property tax revenue.**

926 (1) (a) In accordance with rules adopted by the office, a host agency shall be paid
927 incremental property tax revenue during the eligibility period.

928 (b) Incremental property tax revenue may be used only for:

929 (i) the purchase of or payment for, or reimbursement of a previous purchase of or
930 payment for:

931 (A) tangible personal property used in the construction of convention, exhibit, or
932 meeting space on hotel property;

933 (B) tangible personal property that, upon the construction of hotel property, becomes
934 affixed to hotel property as real property; or

935 (C) any labor and overhead costs associated with the construction described in
936 Subsections (1)(b)(i)(A) and (B);

937 (ii) public infrastructure; and

938 (iii) other purposes as approved by the host agency.

939 (2) A county that collects property tax on hotel property during the eligibility period
940 shall pay and distribute to the host agency the incremental property tax revenue that the host
941 agency is entitled to collect under Subsection (1), in the manner and at the time provided in
942 Section [59-2-1365](#).

943 Section 15. Section **63M-1-3409** is enacted to read:

944 **63M-1-3409. Rulemaking authority -- Requirements for rules.**

945 (1) The office shall, in accordance with Title 63G, Chapter 3, Utah Administrative
946 Rulemaking Act, make rules to carry out its responsibilities under this part and to implement
947 the provisions of this part.

948 (2) The rules the office makes under Subsection (1) shall:

949 (a) establish, consistent with this part, the conditions that a tax credit applicant is
950 required to meet to qualify for a tax credit;

951 (b) require that a significant capital investment be made in the development of the
952 hotel property;

953 (c) require a tax credit applicant to meet all applicable requirements in order to receive
954 a tax credit certificate;

955 (d) require that a qualified hotel owner meet the county's requirements to receive an
956 endorsement letter; and

957 (e) provide for the establishment of an independent review committee, in accordance
958 with the requirements of Section [63M-1-3404](#).

959 Section 16. Section **63M-1-3410** is enacted to read:

960 **63M-1-3410. Report by office -- Posting of report.**

961 (1) Before November 1 of each year, the office shall submit a written report to the
962 Economic Development and Workforce Services Interim Committee of the Legislature, the
963 Governor's Office of Management and Budget, and the Office of the Legislative Fiscal Analyst
964 describing:

965 (a) the state's success in attracting new conventions and corresponding new state
966 revenue;

967 (b) the estimated amount of tax credit commitments and the associated calculation
968 made by the office and the period of time over which tax credits are expected to be paid;

969 (c) the economic impact on the state related to generating new state revenue and
970 providing tax credits; and

971 (d) the estimated and actual costs and economic benefits of the tax credit commitments
972 that the office made.

973 (2) The office shall post the annual report under Subsection (1) on its website and on a
974 state website.

975 (3) Upon the commencement of the construction of a qualified hotel, the office shall
976 send a written notice to the Division of Finance:

977 (a) referring to the two annual deposits required under Subsection [59-12-103\(14\)](#); and

978 (b) notifying the Division of Finance that construction on the qualified hotel has begun.

979 Section 17. Section **63M-1-3411** is enacted to read:

980 **63M-1-3411. Stay Another Day and Bounce Back Fund.**

981 (1) As used in this section:

982 (a) "Bounce back fund" means the Stay Another Day and Bounce Back Fund, created
983 in Subsection (2).

984 (b) "Tourism board" means the Board of Tourism Development created in Section
985 63M-1-1401.

986 (2) There is created an expendable special revenue fund known as the Stay Another
987 Day and Bounce Back Fund.

988 (3) The bounce back fund shall:

989 (a) be administered by the tourism board;

990 (b) earn interest; and

991 (c) be funded by:

992 (i) annual payments under Section 17-31-9 from the county in which a qualified hotel
993 is located;

994 (ii) money transferred to the bounce back fund under Section 63M-1-3412; and

995 (iii) any money that the Legislature chooses to appropriate to the bounce back fund.

996 (4) Interest earned by the bounce back fund shall be deposited into the bounce back
997 fund.

998 (5) The tourism board may use money in the bounce back fund to pay for a tourism
999 program of advertising, marketing, and branding of the state, taking into consideration the
1000 long-term strategic plan, economic trends, and opportunities for tourism development on a
1001 statewide basis.

1002 Section 18. Section **63M-1-3412** is enacted to read:

1003 **63M-1-3412. Hotel Impact Mitigation Fund.**

1004 (1) As used in this section:

1005 (a) "Affected hotel" means a hotel built in the state before July 1, 2014.

1006 (b) "Direct losses" means affected hotels' losses of hotel guest business attributable to
1007 the qualified hotel room supply being added to the market in the state.

1008 (c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection

1009 (2).
1010 (2) There is created an expendable special revenue fund known as the Hotel Impact
1011 Mitigation Fund.
1012 (3) The mitigation fund shall:
1013 (a) be administered by the board;
1014 (b) earn interest; and
1015 (c) be funded by:
1016 (i) payments required to be deposited into the mitigation fund by the Division of
1017 Finance under Subsection 59-12-103(14);
1018 (ii) money required to be deposited into the mitigation fund under Subsection
1019 17-31-9(2) by the county in which a qualified hotel is located; and
1020 (iii) any money deposited into the mitigation fund under Subsection (6).
1021 (4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.
1022 (5) (a) In accordance with office rules, the board shall annually pay up to \$2,100,000 of
1023 money in the mitigation fund:
1024 (i) to affected hotels;
1025 (ii) for four consecutive years, beginning 12 months after the date of initial occupancy
1026 of the qualified hotel occurs; and
1027 (iii) to mitigate direct losses.
1028 (b) (i) If the amount the board pays under Subsection (5)(a) in any year is less than
1029 \$2,100,000, the board shall pay to the Stay Another Day and Bounce Back Fund, created in
1030 Section 63M-1-3411, the difference between \$2,100,000 and the amount paid under Subsection
1031 (5)(a).
1032 (ii) The board shall make any required payment under Subsection (5)(b)(i) within 90
1033 days after the end of the year for which a determination is made of how much the board is
1034 required to pay to affected hotels under Subsection (5)(a).
1035 (6) A host local government or qualified hotel owner may make payments to the
1036 Division of Finance for deposit into the mitigation fund.

1037 (7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1038 office shall, in consultation with the Utah Hotel and Lodging Association and the county in
1039 which the qualified hotel is located, make rules establishing procedures and criteria governing
1040 payments under Subsection (5)(a) to affected hotels.

1041 Section 19. Section **63M-1-3413** is enacted to read:

1042 **63M-1-3413. Authorized expenditures of tax credit money.**

1043 (1) A tax credit recipient may spend money received as a direct result of the state
1044 portion of a tax credit only for the purchase of or payment for, or reimbursement of a previous
1045 purchase of or payment for:

1046 (a) tangible personal property used in the construction of convention, exhibit, or
1047 meeting space on hotel property;

1048 (b) tangible personal property that, upon the construction of hotel property, becomes
1049 affixed to hotel property as real property; or

1050 (c) any labor and overhead costs associated with the construction described in
1051 Subsections (1)(a) and (b).

1052 (2) A tax credit recipient may spend money received as a direct result of the local
1053 portion of a tax credit only for:

1054 (a) a purpose described in Subsection (1);

1055 (b) public infrastructure; and

1056 (c) other purposes as approved by the host agency.

1057 Section 20. **Effective date.**

1058 (1) Except as provided in Subsections (2) and (3), this bill takes effect May 13, 2014.

1059 (2) Sections [59-7-616](#) and [59-10-1110](#) take effect for a taxable year beginning on or
1060 after January 1, 2015.

1061 (3) The amendments to Section [59-12-103](#) (Effective 07/01/14) take effect on July 1,
1062 2014.