

## HB0402S01 compared with HB0402

~~{deleted text}~~ shows text that was in HB0402 but was deleted in HB0402S01.

inserted text shows text that was not in HB0402 but was inserted into HB0402S01.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Brad R. Wilson proposes the following substitute bill:

### NEW CONVENTION FACILITIES DEVELOPMENT

### INCENTIVE ACT AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Brad R. Wilson**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill addresses provisions relating to incentives for the development of new convention facilities.

##### Highlighted Provisions:

This bill:

- ▶ modifies the incentive for the development of new convention facilities from an income tax credit to payments of sales and use tax money from a restricted special revenue fund;
- ▶ provides for new tax revenue from a qualified hotel to be placed into a restricted special revenue fund;

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- ▶ establishes a restricted special revenue fund and provides for its funding;
- ▶ modifies duties of the independent review committee;
- ▶ modifies provisions relating to the submission of a claim for a convention incentive and the processing of a claim;
- ▶ modifies provisions relating to incremental property tax revenue; and
- ▶ modifies provisions relating to the authorized use of a convention incentive.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

~~{ None }~~ This bill provides a special effective date.

### Utah Code Sections Affected:

#### AMENDS:

63M-1-3402, as enacted by Laws of Utah 2014, Chapter 429

63M-1-3403, as enacted by Laws of Utah 2014, Chapter 429

63M-1-3404, as enacted by Laws of Utah 2014, Chapter 429

63M-1-3405, as enacted by Laws of Utah 2014, Chapter 429

63M-1-3407, as enacted by Laws of Utah 2014, Chapter 429

63M-1-3408, as enacted by Laws of Utah 2014, Chapter 429

63M-1-3409, as enacted by Laws of Utah 2014, Chapter 429

63M-1-3410, as enacted by Laws of Utah 2014, Chapter 429

63M-1-3411, as enacted by Laws of Utah 2014, Chapter 429

63M-1-3412, as enacted by Laws of Utah 2014, Chapter 429

63M-1-3413, as enacted by Laws of Utah 2014, Chapter 429

#### ENACTS:

63M-1-3403.5, Utah Code Annotated 1953

#### REPEALS:

59-7-616, as enacted by Laws of Utah 2014, Chapter 429

59-10-1110, as enacted by Laws of Utah 2014, Chapter 429

63M-1-3406, as enacted by Laws of Utah 2014, Chapter 429

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

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Section 1. Section **63M-1-3402** is amended to read:

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

As used in this part:

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

(2) "Base taxable value" means the value of hotel property before the construction on a qualified hotel begins, as that value is established by the county in which the hotel property is located, using a reasonable valuation method that may include the value of the hotel property on the county assessment rolls the year before the year during which construction on the qualified hotel begins.

(~~3~~) "Certified claim" means a claim that the office has approved and certified as provided in Section 63M-1-3405.

(~~3~~) "Claim" means a written document submitted by a qualified hotel owner or host local government to request a convention incentive.

(~~4~~) "Claimant" means the qualified hotel owner or host local government that submits a claim under Subsection 63M-1-3405(1)(a) for a convention incentive.

~~(2)~~ (~~5~~) "Commission" means the Utah State Tax Commission.

~~(3)~~ (~~6~~) "Community development and renewal agency" [has the same meaning as] means the same as that term is defined in Section 17C-1-102.

(~~7~~) "Construction revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring during the eligibility period as a result of the construction of the hotel property, including purchases made by a qualified hotel owner and its subcontractors.

(~~8~~) "Convention incentive" means an incentive for the development of a qualified hotel, in the form of payment from the incentive fund as provided in this part, as authorized in an agreement.

~~(4)~~ (~~9~~) "Eligibility period" means:

(a) the period that:

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

(ii) ends:

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

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(B) for purposes of the local portion and incremental property tax revenue, 25 years after the date of initial occupancy of that hotel; or

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

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

(ii) is shorter than the period described in Subsection [(4)] ~~(9)~~ 10(a).

[(5)] ~~(10)~~ 11 "Endorsement letter" means a letter:

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

(b) signed by the county executive; and

(c) expressing the county's endorsement of a developer of a qualified hotel as meeting all the county's criteria for receiving the county's endorsement.

[(6)] ~~(11)~~ 12 "Host agency" means the community development and renewal agency of the host local government.

[(7)] ~~(12)~~ 13 "Host local government" means:

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

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

[(8)] ~~(13)~~ 14 "Hotel property" means a qualified hotel and any property that is included in the same development as the qualified hotel, including convention, exhibit, and meeting space, retail shops, restaurants, parking, and other ancillary facilities and amenities.

~~(14)~~ 15 "Incentive fund" means the Convention Incentive Fund created in Section 63M-1-3403.5.

[(9)] ~~(15)~~ 16 "Incremental property tax revenue" means the amount of property tax revenue generated from hotel property that equals the difference between:

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

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

[(10)] ~~(16)~~ 17 "Local portion" means~~[-(a)]~~ the portion of new tax revenue that is ~~[not~~

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~~the state portion; and] generated by local taxes.~~

~~[(b) incremental property tax revenue:]~~

~~(~~f17~~;18) "Local taxes" means a tax imposed under:~~

~~(a) Section 59-12-204;~~

~~(b) Section 59-12-301;~~

~~(c) Sections 59-12-352 and 59-12-353;~~

~~(d) Subsection 59-12-603(1)(a)(i)(A);~~

~~(e) Subsection 59-12-603(1)(a)(i)(B);~~

~~(f) Subsection 59-12-603(1)(a)(ii);~~

~~(g) Subsection 59-12-603(1)(a)(iii); or~~

~~(h) Section 59-12-1102.~~

~~[(11)] (~~f18~~;19) "New tax revenue" means[~~±~~] construction revenue, offsite revenue, and onsite revenue.~~

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

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

~~[(c) all new] (~~f19~~;20) "Offsite revenue" means revenue generated from [a tax under Title 59, Chapter 12, Sales and Use Tax Act,] state taxes and local taxes imposed on transactions by a third-party seller occurring other than on hotel property during the eligibility period, if:~~

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

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

~~(~~f20~~;21) "Onsite revenue" means revenue generated from state taxes and local taxes imposed on transactions occurring on hotel property during the eligibility period.~~

~~[(12)] (~~f21~~;22) "Public infrastructure" means:~~

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

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

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

~~[(13)]~~ ~~(~~22~~;23)~~ "Qualified hotel" means a full-service hotel development constructed in the state on or after July 1, 2014 that:

(a) requires a significant capital investment;

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

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

~~[(14)]~~ ~~(~~23~~;24)~~ "Qualified hotel owner" means a person who owns a qualified hotel.

~~[(15)]~~ ~~(~~24~~;25)~~ "Review committee" means the independent review committee established under Section 63M-1-3404.

~~[(16)]~~ ~~(~~25~~;26)~~ "Significant capital investment" means an amount of at least \$200,000,000.

~~[(17)]~~ ~~(~~26~~;27)~~ "State portion" means the portion of new tax revenue that is ~~[attributable to a tax imposed under Subsection 59-12-103(2)(a)(i)(A)]~~ generated by state taxes.

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

~~[(19)]~~ ~~"Tax credit applicant" means a qualified hotel owner or host local government that:]~~

~~[(a) has entered into an agreement with the office; and]~~

~~[(b) pursuant to that agreement, submits an application for the issuance of a tax credit certificate.]~~

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

~~[(a) the name of the tax credit recipient;]~~

~~[(b) the tax credit recipient's taxpayer identification number;]~~

~~[(c) the amount of the tax credit authorized under this part for a taxable year; and]~~

~~[(d) other information as determined by the office.]~~

~~[(21)]~~ ~~"Tax credit recipient" means a tax credit applicant that has been issued a tax credit certificate.]~~

~~(~~27~~;28)~~ "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i).

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(2)(b)(i), (2)(c)(i), or (2)(d)(i)(A).

~~[(22)]~~ ~~(~~28~~29)~~ "Third-party seller" means a person who is a seller in a transaction:

(a) occurring other than on hotel property;

(b) that is:

(i) the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property; or

(ii) the sale of tangible personal property or a service that is part of a bundled transaction, as defined in Section 59-12-102, with a sale, rental, or lease described in Subsection ~~[(22)]~~ ~~(~~28~~29)~~(b)(i); and

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

Section 2. Section **63M-1-3403** is amended to read:

**63M-1-3403. Agreement for development of new convention hotel -- Convention incentive authorized -- Agreement requirements.**

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

(a) for the development of a qualified hotel; and

(b) to authorize a ~~[tax credit]~~ convention incentive:

(i) to the qualified hotel owner or host local government, but not both;

(ii) for a period not to exceed the eligibility period;

(iii) in the amount of new tax revenue, subject to Subsection (2) and notwithstanding any other restriction provided by law;

~~[(iii)]~~ (iv) if:

(A) the county in which the qualified hotel is proposed to be located has issued an endorsement letter endorsing the qualified hotel owner; and

(B) all applicable requirements of this part and the agreement are met; and

(iv) that is reduced by \$1,900,000 per year during the first two years of the eligibility period, as described in Subsection (2)(c).

(2) An agreement under Subsection (1) shall:

(a) specify the requirements for ~~[a tax credit recipient]~~ the qualified hotel owner or host local government to qualify for a ~~[tax credit]~~ convention incentive;

(b) require compliance with the terms of the endorsement letter issued by the county in

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which the qualified hotel is proposed to be located;

(c) require the amount of [~~a tax credit listed in a tax credit certificate issued during~~] certified claims for the first two years of the eligibility period to be reduced by \$1,900,000 per year;

(d) with respect to the state portion of [~~any tax credit that the tax credit recipient may receive during the eligibility period~~] the convention incentive:

(i) specify the maximum dollar amount that the [~~tax credit recipient~~] qualified hotel owner or host local government may receive, subject to a maximum of:

(A) for any [~~taxable~~] calendar year, the amount of the state portion [~~of new tax revenue~~] in that [~~taxable~~] calendar year; and

(B) \$75,000,000 in the aggregate for [~~any tax credit recipient~~] the qualified hotel owner or host local government during an eligibility period, calculated as though the two \$1,900,000 reductions of the tax credit amount under Subsection (1)(b)(iv) had not occurred; and

(ii) specify the maximum percentage of the state portion [~~of new tax revenue~~] that may be used in calculating [~~a tax credit that a tax credit recipient~~] the portion of the convention incentive that the qualified hotel owner or host local government may receive during the eligibility period for each [~~taxable~~] calendar year and in the aggregate;

(e) establish a shorter period of time than the period described in Subsection 63M-1-3402(5)(a) during which the [~~tax credit recipient may claim a tax credit~~] qualified hotel owner or host local government may claim the convention incentive or that the host agency may be paid incremental property tax revenue, if the office and qualified hotel owner or host local government agree to a shorter period of time;

(f) require the [~~tax credit recipient~~] qualified hotel owner to retain books and records supporting a claim for [~~a tax credit~~] the convention incentive as required by Section 59-1-1406;

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

(h) limit the expenditure of funds received under [~~a tax credit~~] the convention incentive as provided in Section 63M-1-3412; and

(i) require the [~~tax credit recipient~~] qualified hotel owner or host local government to submit to any audit and to provide any audit level attestation or other level of review the office considers appropriate for verification of any [~~tax credit or claimed tax credit~~] claim.

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(3) Notwithstanding any other provision of law, a county or city in which a qualified hotel is located may contribute property to the qualified hotel owner or host local government without consideration or partially or completely in lieu of money that the county or city would have otherwise paid to the qualified hotel owner or host local government as part of a convention incentive or as incremental property tax revenue, to be used as provided in Subsection 63M-1-3408(3)(a).

Section 3. Section **63M-1-3403.5** is enacted to read:

### **63M-1-3403.5. Convention Incentive Fund.**

(1) There is created ~~for a restricted~~ an expendable special revenue fund known as the Convention Incentive Fund.

(2) (a) The incentive fund shall be funded by new tax revenue, as provided in Subsection (3).

(b) No legislative appropriation is required to fund the incentive fund.

(c) All interest generated from the investment of money in the incentive fund shall be deposited into the incentive fund.

(3) (a) During the portion of the eligibility period specified by the office under Subsection 63M-1-3405(7)(a), the commission shall cause new tax revenue to be deposited into the incentive fund as provided in this Subsection (3).

(b) To the extent the commission is able to identify sellers involved in transactions generating state taxes or local taxes before the payment of those taxes, the commission shall deposit new tax revenue directly into the incentive fund, notwithstanding Subsection 59-12-103(3) and before the allocations required by Section 59-12-204, Subsection 59-12-205(2), Section 59-12-401, Section 59-12-603, and Section 59-12-1102.

(c) The commission shall, within 30 days after the office provides the information required under Subsection 63M-1-3405(7)(b):

(i) except as provided in Subsection (3)(d), withhold from distribution to counties, cities, and towns the local portion of new tax revenue not deposited into the incentive fund under Subsection (3)(b) and transfer that local portion to the incentive fund; and

(ii) transfer to the incentive fund any state portion of new tax revenue not deposited into the incentive fund under Subsection (3)(b).

(d) The commission may equalize over a 12-month period the withholding required

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under Subsection (3)(c)(i) for a county, city, or town that requests equalization.

(4) One year after the end of the eligibility period, the commission shall transfer any money remaining in the incentive fund to the Stay Another Day and Bounce Back Fund created in Section 63M-1-3411, except to the extent the money is needed to pay an unpaid certified claim.

(5) Except as otherwise provided in this chapter, an agreement with or approval by a local government entity is not required for the use of the state portion or local portion to fund a convention incentive.

(6) Distributions of money from the incentive fund shall be in accordance with Section 63M-1-3405.

Section 4. Section **63M-1-3404** is amended to read:

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

(1) In accordance with rules adopted by the office under Section 63M-1-3408, the board shall establish a separate, independent review committee to~~[-]~~ provide recommendations to the office regarding the terms and conditions of an agreement and to consult with the office as provided in this part or in rule.

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

~~[(b) consult with the office, as provided in this part.]~~

(2) The review committee shall consist of:

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

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

(c) two members appointed by:

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

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

(d) an individual representing the hotel industry, appointed by the Utah Hotel and

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Lodging Association;

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

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

(g) one member appointed by the board.

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

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

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

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

Section 5. Section **63M-1-3405** is amended to read:

### **63M-1-3405. Submission of written claim for convention incentive -- Disclosure of tax returns and other information -- Determination of claim.**

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

~~[(a) a written application for a tax credit certificate;]~~

(1) The office may not pay any money from the incentive fund to a qualified hotel owner or host local government unless:

(a) the qualified hotel owner or host local government submits a claim and other required documentation, as provided in this section; and

(b) the office approves and certifies the claim, as provided in this section.

(2) A qualified hotel owner or host local government that desires to qualify for a convention incentive shall submit to the office:

(a) a written claim for a convention incentive;

(b) (i) for [an application] a claim submitted by a qualified hotel owner:

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

(B) documentation of the new tax revenue previously generated [during the preceding

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year], itemized by construction revenue, offsite revenue, onsite revenue, type of sales or use tax, and the location of the transaction generating the new tax revenue as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215;

(C) the identity of sellers collecting onsite revenue and the date the sellers will begin collecting onsite revenue;

~~[(E)]~~ (D) a document in which the qualified hotel owner expressly directs and authorizes the commission to disclose to the office the qualified hotel owner's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

~~[(D)]~~ (E) a document in which the qualified hotel's direct vendors, lessees, or subcontractors, as applicable, expressly direct and authorize the commission to disclose to the office the tax returns and other information of those vendors, lessees, or subcontractors that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code;

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

~~[(F)]~~ (G) documentation verifying that the qualified hotel owner is in compliance with the terms of the agreement; and

(H) any other documentation that the agreement or office requires; and

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

(c) if the host local government intends to assign the ~~[tax credit sought in the tax credit application]~~ convention incentive to a community development and renewal agency~~[: (i) the taxpayer identification number of the community development and renewal agency; and (ii)]~~, a document signed by the governing body members of the community development and renewal agency that expressly directs and authorizes the commission to disclose to the office the agency's tax returns and other information that would otherwise be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; and

(d) ~~[a statement provided by]~~ an audit level attestation, or other level of review

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approved by the office, from an independent certified public accountant, [at the tax credit applicant's expense] hired by the claimant, attesting to the accuracy [of the documentation of new tax revenue] and validity of the amount of the state portion and the local portion being claimed by the claimant.

~~[(2)]~~ (3) (a) The office shall submit to the commission the documents described in Subsections ~~[(+)]~~ (2)(b)(i)(C), (D), and (E) and ~~[(+)]~~ (2)(c)(ii) authorizing disclosure of the tax returns and other information.

(b) Upon receipt of the documents described in Subsection ~~[(2)]~~ (3)(a), the commission shall provide to the office the tax returns and other information described in those documents.

~~[(3)]~~ (4) If the office determines that the tax returns and other information ~~[is]~~ are inadequate to ~~[validate the issuance of a tax credit certificate]~~ enable the office to approve and certify a claim, the office shall inform the ~~[tax credit applicant]~~ claimant that the tax returns and other information were inadequate and request the tax credit applicant to submit additional documentation to validate the ~~[issuance of a tax credit certificate]~~ claim.

~~[(4)]~~ (5) If the office determines that the returns and other information, including any additional documentation provided under Subsection ~~[(3);]~~ (4), comply with applicable requirements and provide reasonable justification ~~[for the issuance of a tax credit certificate]~~ to approve and certify the claim, the office shall:

(a) approve and certify the claim;

~~[(a)]~~ (b) determine the amount of the ~~[tax credit to be listed on the tax credit certificate;]~~ certified claim; and

~~[(b)]~~ issue a tax credit certificate to the tax credit applicant for the amount of that tax credit; and]

~~[(c)]~~ provide a copy of the tax credit certificate to the commission;]

(c) disburse money from the incentive fund to pay the certified claim as provided in Subsection (6).

(6) The office shall pay claims from available money in the incentive fund at least annually.

(7) For each certified claim, the office shall provide the commission:

(a) for onsite revenue:

(i) the identity of sellers operating upon the hotel property;

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(ii) the date that the commission is to begin depositing or transferring onsite revenue under Section 63M-1-3403.5 for each seller operating upon the hotel property;

(iii) the date that the commission is to stop depositing or transferring onsite revenue to the incentive fund under Section 63M-1-3403.5 for each seller operating upon the hotel property; and

(iv) the type of sales or use tax subject to the commission's deposit or transfer to the incentive fund under Section 63M-1-3403.5;

(b) for construction revenue and offsite revenue:

(i) the amount of new tax revenue authorized under the agreement constituting construction revenue or offsite revenue;

(ii) the location of the transactions generating the construction revenue and offsite revenue, as determined under Sections 59-12-211, 59-12-211.1, 59-12-212, 59-12-213, 59-12-214, and 59-12-215; and

(iii) the type of sales or use tax that constitutes the construction revenue of offsite revenue described in Subsection (7)(b)(ii); and

(c) any other information the commission requires.

Section 6. Section **63M-1-3407** is amended to read:

### **63M-1-3407. Assigning convention incentive.**

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

(2) A host local government that adopts a resolution assigning a [~~tax credit~~] convention incentive under Subsection (1) shall provide a copy of the resolution to the office [~~and the commission~~].

Section 7. Section **63M-1-3408** is amended to read:

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

~~†(1) (a)~~ (1) As used in this section:

(a) "Displaced tax increment" means the amount of tax increment that a county would have paid to the host agency except for Subsection (2)(b).

(b) "Tax increment" means the same as that term is defined in Section 17C-1-102.

~~†(2) (a)~~ (2) (a) In accordance with rules adopted by the office, [~~a host agency shall be~~

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paid] ~~the~~ a county in which a qualified hotel is located shall ~~pay~~ retain incremental property tax revenue ~~to the host agency~~ during the eligibility period ~~in the manner and at the time provided in Section 59-2-1365.~~

~~[(b)] (2);~~

(b) The amount of incremental property tax revenue that a county retains under Subsection (2)(a) for a taxable year reduces by that amount any tax increment that the county would otherwise have paid to the host agency for that year.

(c) For any taxable year in which a reduction of tax increment occurs as provided in Subsection (2)(b), the county shall provide the host agency a notice that:

(i) states the amount of displaced tax increment for that year;

(ii) states the number of years remaining in the eligibility period;

(iii) provides a detailed accounting of how the displaced tax increment was used; and

(iv) explains how the displaced tax increment will be used in the following taxable

year.

~~[(b)] (3)~~ Incremental property tax revenue may be used only for:

~~(+)~~ (a) the purchase of or payment for, or reimbursement of a previous purchase of or payment for:

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

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

~~(C)~~ (iii) any labor and overhead costs associated with the construction described in Subsections ~~[(1)(b)(i)(A) and (B)]~~ ~~(+2+3)~~(a)(i) and (ii); and

~~(ii)~~ (b) public infrastructure ~~and~~;

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

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

~~(3) A host agency shall, through an interlocal agreement under Title 11, Chapter 13, Interlocal Cooperation Act, with the county in which a qualified hotel is located, pay to the~~

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county all 4) (a) Incremental property tax:

(i) is not tax increment; and

(ii) is not subject to:

(A) Title 17C, Limited Purpose Local Government Entities -- Community Development and Renewal Agencies Act; or

(B) any other law governing tax increment, except as provided in Subsection (4)(c).

(b) The payment and use of incremental property tax ~~revenue the host agency receives~~ under Subsection (1)}, as provided in this part, is not subject to the approval of any taxing entity, as defined in Section 17C-1-102.

(c) Revenue from an increase in the taxable value of hotel property is considered to be a redevelopment adjustment for purposes of calculating the certified tax rate under Section 59-2-924.

Section 8. Section **63M-1-3409** is amended to read:

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

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

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

(a) establish, consistent with this part, the conditions ~~[that a tax credit applicant is]~~ required ~~[to meet to qualify for a tax credit]~~ for a convention incentive;

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

(c) require a ~~[tax credit applicant]~~ claimant to meet all applicable requirements in order to receive a ~~[tax credit certificate]~~ distribution from the incentive fund;

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

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

Section 9. Section **63M-1-3410** is amended to read:

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

(1) Before November 1 of each year, the office shall submit a written report to the

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Economic Development and Workforce Services Interim Committee of the Legislature, the Governor's Office of Management and Budget, and the Office of the Legislative Fiscal Analyst describing:

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

(b) the estimated amount of [~~tax credit~~] convention incentive commitments and the associated calculation made by the office and the period of time over which [~~tax credits~~] convention incentives are expected to be paid;

(c) the economic impact on the state related to generating new state revenue and providing [~~tax credits~~] convention incentives; and

(d) the estimated and actual costs and economic benefits of the [~~tax credit~~] convention incentive commitments that the office made.

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

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

(a) referring to the two annual deposits required under Subsection 59-12-103(14); and

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

Section 10. Section **63M-1-3411** is amended to read:

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

(1) As used in this section:

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

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

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

(3) The bounce back fund shall:

(a) be administered by the tourism board;

(b) earn interest; and

(c) be funded by:

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

(ii) money transferred to the bounce back fund under Section 63M-1-3043.5 or 63M-1-3412; and

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

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

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

### Section 11. Section 63M-1-3412 is amended to read:

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

(1) As used in this section:

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

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

(c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection (2).

(2) There is created an expendable special revenue fund known as the Hotel Impact Mitigation Fund.

(3) The mitigation fund shall:

(a) be administered by the board;

(b) earn interest; and

(c) be funded by:

(i) payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103~~(14)~~(13);

(ii) money required to be deposited into the mitigation fund under Subsection 17-31-9(2) by the county in which a qualified hotel is located; and

(iii) any money deposited into the mitigation fund under Subsection (6).

(4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.

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(5) (a) In accordance with office rules, the board shall annually pay up to \$2,100,000 of money in the mitigation fund:

(i) to affected hotels;

(ii) for four consecutive years, beginning 12 months after the date of initial occupancy of the qualified hotel occurs; and

(iii) to mitigate direct losses.

(b) (i) If the amount the board pays under Subsection (5)(a) in any year is less than \$2,100,000, the board shall pay to the Stay Another Day and Bounce Back Fund, created in Section 63M-1-3411, the difference between \$2,100,000 and the amount paid under Subsection (5)(a).

(ii) The board shall make any required payment under Subsection (5)(b)(i) within 90 days after the end of the year for which a determination is made of how much the board is required to pay to affected hotels under Subsection (5)(a).

(6) A host local government or qualified hotel owner may make payments to the Division of Finance for deposit into the mitigation fund.

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

Section ~~{11}~~12. Section **63M-1-3413** is amended to read:

### **63M-1-3413. Authorized expenditures of convention incentive.**

(1) A [~~tax credit recipient~~] qualified hotel owner or host local government may spend money received [~~as a direct result of~~] from the state portion of a [~~tax credit only for the purchase of or payment for, or reimbursement of a previous purchase of or payment for;~~] convention incentive only for a purpose described in Subsection 63M-1-3408(2)(a).

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

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

~~[(c) any labor and overhead costs associated with the construction described in Subsections (1)(a) and (b).]~~

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(2) A [~~tax credit recipient~~] qualified hotel owner or host local government may spend money received [~~as a direct result of~~] from the local portion of a [~~tax credit~~] convention incentive only for:

- (a) a purpose described in Subsection (1);
- (b) public infrastructure; and
- (c) other purposes as [~~approved by the host agency~~] specified in the agreement.

Section ~~{12}~~13. **Repealer.**

This bill repeals:

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

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

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

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### **Legislative Review Note**

— as of ~~2-24-15 10:30 AM~~

— ~~Office of Legislative Research and General Counsel~~; Section 14. Effective date.

This bill takes effect on July 1, 2015.