

HB0356S01 compared with HB0356

~~text~~ shows text that was in HB0356 but was deleted in HB0356S01.

text shows text that was not in HB0356 but was inserted into HB0356S01.

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Representative Brad R. Wilson proposes the following substitute bill:

NEW CONVENTION ~~HOTEL~~FACILITY DEVELOPMENT

INCENTIVE

PROVISIONS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Brad R. Wilson

Senate Sponsor: _____

Cosponsor: Rebecca D. Lockhart

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ enacts the New Convention ~~Hotel~~Facility Development Incentive Act;
- ▶ establishes a tax credit for the owner of a new convention hotel or a local

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government entity, under certain circumstances, in the amount of state and local sales tax revenue generated from sales related to the construction of a new convention hotel and from sales on hotel property, and other local taxes;

- ▶ establishes requirements and criteria for qualifying for a tax credit;
 - ▶ establishes a process for applying for and the issuance of a tax credit certificate, including an agreement between the Governor's Office of Economic Development and the hotel owner or local government in which the hotel is located;
 - ▶ authorizes a community development and renewal agency of a host local government to receive incremental property tax revenue generated from hotel property during the eligibility period;
 - ▶ limits how money derived from a tax credit and incremental property tax revenue may be spent;
 - ▶ establishes an independent review committee to review tax credit applications;
 - ▶ grants the Governor's Office of Economic Development rulemaking authority to carry out its responsibilities under and to implement provisions of this bill;
 - ▶ requires a county in which a new convention hotel is located to make an annual payment into the Stay Another Day and Bounce Back Account;
 - ▶ creates the Stay Another Day and Bounce Back ~~Account as a restricted account in the General Fund~~; Fund as an expendable special revenue fund;
 - ▶ creates the Hotel Impact Mitigation Fund as an expendable special revenue fund;
- and
- ▶ modifies the duties and authority of the Board of Tourism Development.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

Utah Code Sections Affected:

AMENDS:

59-12-103 (Effective 07/01/14), as last amended by Laws of Utah 2013, Chapters 150 and 227

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

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

ENACTS:

17-31-9, Utah Code Annotated 1953

59-7-616, Utah Code Annotated 1953

59-10-1110, Utah Code Annotated 1953

63M-1-3401, Utah Code Annotated 1953

63M-1-3402, Utah Code Annotated 1953

63M-1-3403, Utah Code Annotated 1953

63M-1-3404, Utah Code Annotated 1953

63M-1-3405, Utah Code Annotated 1953

63M-1-3406, Utah Code Annotated 1953

63M-1-3407, Utah Code Annotated 1953

63M-1-3408, Utah Code Annotated 1953

63M-1-3409, Utah Code Annotated 1953

63M-1-3410, Utah Code Annotated 1953

63M-1-3411, Utah Code Annotated 1953

63M-1-3412, Utah Code Annotated 1953

63M-1-3413, Utah Code Annotated 1953

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

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

17-31-9. Payment to Stay Another Day and Bounce Back ~~{Account}~~Fund and Hotel Impact Mitigation Fund.

A county in which a qualified hotel, as defined in Section 63M-1-3402, is located shall:

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

(~~{1}~~a) for deposit into the Stay Another Day and Bounce Back ~~{Account}~~Fund, established in Section 63M-1-3411;

(~~{2}~~b) for any year in which the Governor's Office of Economic Development issues a tax credit certificate, as defined in Section 63M-1-3402; and

(~~{3}~~c) in the amount of 5% of the state portion, as defined in Section 63M-1-3402 ~~f. of~~

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~~the tax credit, as}~~; and

(2) make payments to the Division of Finance:

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

(b) for each year described in Subsection 63M-1-3412(5)(a)(ii) during which the balance of the Hotel Impact Mitigation Fund, defined in Section ~~63M-1-3402~~, awarded by the tax credit certificate}63M-1-3412, is less than \$2,100,000 before any payment for that year under Subsection 63M-1-3412(5)(a); and

(c) in the amount of the difference between \$2,100,000 and the balance of the Hotel Impact Mitigation Fund, defined in Section 63M-1-3412, before any payment for that year under Subsection 63M-1-3412(5)(a).

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

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

(1) As used in this section:

~~{ (a) "Eligibility period" has the same meaning as defined in Section 63M-1-3402.~~

~~† (f**b**)a) "Office" means the Governor's Office of Economic Development.~~

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

~~(f**d**)c) "Pass-through entity taxpayer" has the same meaning as defined in Section 59-10-1402.~~

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

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

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

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

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

(4) A tax credit recipient:

(a) may claim or pass through a tax credit in a taxable year other than the taxable year

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during which the tax credit recipient has been issued a tax credit certificate; and

(b) may not claim a tax credit under both this section and Section 59-7-1110.

(5) (a) In accordance with any rules prescribed by the commission under Subsection

(5)(b), the commission shall:

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

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

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

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

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

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

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

(1) As used in this section:

~~{~~ (a) "Eligibility period" has the same meaning as defined in Section 63M-1-3402.

~~}~~ (~~f~~~~b~~)~~a~~) "Office" means the Governor's Office of Economic Development.

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

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

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

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

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

(b) If the tax credit recipient is a pass-through entity, the pass-through entity shall pass through to one or more pass-through entity taxpayers of the pass-through entity, in accordance with Chapter 10, Part 14, Pass-Through Entities and Pass-Through Entity Taxpayers Act, a

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refundable tax credit that the tax credit recipient could otherwise claim under this section.

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

(4) A tax credit recipient:

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

(b) may not claim a tax credit under both this section and Section 59-7-616.

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

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

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

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

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

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

Section 4. Section 59-12-103 (Effective 07/01/14) is amended to read:

59-12-103 (Effective 07/01/14). Sales and use tax base -- Rates -- Effective dates --

Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications

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Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

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

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

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

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

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

(i) stored;

(ii) used; or

(iii) otherwise consumed;

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

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

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

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

(ii) regardless of whether the sale provides:

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

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

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

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

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

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales

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and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

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

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

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

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

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

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections

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59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

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

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

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

(II) state or federal law provides otherwise; or

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

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

(II) state or federal law provides otherwise.

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

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a

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product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to taxation under this chapter, the entire transaction is subject to taxation under this chapter unless the seller, at the time of the transaction:

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

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

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

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

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

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

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

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

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

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

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course of business for nontax purposes.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(B) for the fiscal year; or

(ii) \$17,500,000.

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

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

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

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the

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Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

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

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

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

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

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

(ii) At the end of each fiscal year:

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

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

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

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

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

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an

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area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

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

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

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

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

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

(iii) develop surface water sources.

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

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

(ii) \$17,500,000.

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

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

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

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

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

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

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

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

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

(i) preconstruction costs:

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

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

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

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

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

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

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

(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%

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tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in the Transportation Fund created by Section 72-2-102.

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

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

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

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

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

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

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

(A) the total percentage of sales and use taxes deposited under Subsection (8)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections

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(8)(a)(i)(A) through (D) in the current fiscal year.

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

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

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

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

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

(b) For purposes of Subsection (11)(a), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the

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Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1) to be expended to address chokepoints in construction management.

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

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

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

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

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

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

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

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

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

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

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

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

(8) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to award a contract for a design-build transportation project in certain circumstances, is repealed July 1,

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2015.

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

2020.

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

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

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

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

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

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

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

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

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

(ii) (A) for the purchase price of machinery or equipment described in Section 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31, 2020; or

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

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

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

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

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

(B) prior to July 1, 2014, seek amendments to the Health Care Compact among the

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member states that the Legislature determines are appropriate after considering the recommendations of the Health System Reform Task Force.

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

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

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

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

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

(E) whether the state has the flexibility it needs under the compact to implement and fund state based initiatives, or whether the compact requires uniformity across member states that does not benefit Utah;

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

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

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

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

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

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

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

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

63M-1-1403. Board duties.

(1) The board shall:

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

(b) have authority to approve a tourism program of advertising, marketing, and branding of the state, taking into account the long-term strategic plan, economic trends, and opportunities for tourism development on a statewide basis, as a condition of the distribution of money to the office from the Stay Another Day and Bounce Back Account, created in Section 63M-1-3411;

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

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

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

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

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

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

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

(2) The board may:

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

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

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

Section ~~{5}~~7. Section **63M-1-3401** is enacted to read:

Part 34. New Convention ~~{Hotel}~~Facility Development Incentive Act

63M-1-3401. Title.

This part is known as the "New Convention ~~{Hotel}~~Facility Development Incentive Act."

Section ~~{6}~~8. Section **63M-1-3402** is enacted to read:

63M-1-3402. Definitions.

As used in this part:

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

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

~~{~~ (3) "Committee" means the independent review committee established as provided in Subsection 63M-1-3404(1).

~~†~~ (~~{4}~~3) "Community development and renewal agency" has the same meaning as defined in Section 17C-1-102.

(~~{5}~~4) "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

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qualified hotel; or

(B) for purposes of the local portion, 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 ~~(5)4~~(a).

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

(7) "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) "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.

(9) "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 base taxable value of the hotel property as established by the county in which the hotel property is located.

(10) "Local portion" means:

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

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(b) incremental property tax revenue.

(11) "New tax revenue" means:

(a) all ~~incremental~~ 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 ~~a qualified~~ the hotel property, including purchases made by a qualified hotel owner and its subcontractors; ~~and~~

(b) all ~~incremental~~ 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 revenue generated from a tax under Title 59, Chapter 12, Sales and Use Tax Act, 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).

(12) "Public infrastructure" means:

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

(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) "Qualified hotel" means a ~~single~~ 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) "Qualified hotel owner" means a person who owns a qualified hotel.

(15) "Review committee" means the independent review committee established under

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Section 63M-1-3404.

~~(15)~~16 "Significant capital investment" means an amount of at least \$200,000,000.

~~(16)~~17 "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).

~~(17)~~18 "Tax credit" means a tax credit under Section 59-7-616 or 59-10-1110.

~~(18)~~ "Tax credit amount" means the amount the office lists as a tax credit on a tax credit certificate.

~~(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 ~~amount~~ 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.

(22) "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 on hotel property; and

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

Section ~~7~~9. Section **63M-1-3403** is enacted to read:

63M-1-3403. ~~Agreement~~ **Agreement** for development of new convention hotel

-- Tax credit authorized -- Agreement requirements.

(1) The office, with the board's advice, may enter into an agreement with a qualified

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hotel owner or a host local government:

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

(b) to authorize a tax credit:

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

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

~~(iii) if;~~

(iii) 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 ~~f~~.

~~f~~; 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 shall:

(a) specify the requirements for a tax credit recipient to qualify for a tax credit;

(b) require compliance with the terms of the endorsement letter issued by the county in 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 the first two years of the eligibility period to be reduced by \$1,900,000 per year;

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

(i) specify the maximum dollar amount that the tax credit recipient may receive, subject to a maximum of:

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

(B) \$75,000,000 in the aggregate for any tax credit recipient 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 may receive during the eligibility period for each taxable year and in the aggregate;

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(fete) 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 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;

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

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

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

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

Section ~~8~~10. Section **63M-1-3404** is enacted to read:

63M-1-3404.~~f-Independent~~ **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:

(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 ~~{9}~~ 11. Section **63M-1-3405** is enacted to read:

63M-1-3405. ~~{ Submission }~~ Submission of written application for tax credit certificate -- Disclosure of tax returns and other information -- Determination of tax credit application.

(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;

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

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

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

(C) 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) 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

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be subject to confidentiality under Section 59-1-403 or Section 6103, Internal Revenue Code; ~~and~~

~~(E)~~

(E) 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 that shows the amount of tax under Title 59, Chapter 12, Sales and Use Tax Act, that the third-party seller has collected in a transaction occurring other than on hotel property for the sale, rental, or lease of a room or of convention or exhibit space or other facilities on hotel property or for the sale of tangible personal property or a service on hotel property; and

(F) documentation verifying that the qualified hotel owner ~~has satisfied~~ is in compliance with the ~~performance benchmarks outlined in~~ terms of the agreement;

(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 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 independent certified public accountant, at the tax credit applicant's expense, attesting to the accuracy of the documentation of new tax revenue.

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

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

(3) If the office determines that the tax returns and other information is inadequate to

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validate the issuance of a tax credit certificate, the office shall inform the tax credit applicant 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.

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

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

(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.

Section ~~{10}~~12. Section **63M-1-3406** is enacted to read:

63M-1-3406. ~~{ Effect }~~ **Effect of tax credit certificate -- Retaining tax credit certificate.**

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

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

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

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

Section ~~{11}~~13. Section **63M-1-3407** is enacted to read:

63M-1-3407. ~~{ Assigning }~~ **Assigning tax credit.**

(1) A host local government that enters into an agreement with the office may, by resolution, assign a tax credit 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 under Subsection (1) shall provide a copy of the resolution to the office and the commission.

Section ~~{12}~~14. Section **63M-1-3408** is enacted to read:

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

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

(b) Incremental property tax revenue may be used only ~~to pay for~~ for:

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

(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)(b)(i)(A) and (B);

(ii) public infrastructure ~~associated with hotel property~~; 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.

Section ~~13~~15. Section **63M-1-3409** is enacted to read:

63M-1-3409. ~~Rulemaking~~ 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;

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

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

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

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

Section ~~{14}~~16. Section **63M-1-3410** is enacted to read:

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

(1) Before November 1 of each year, the office shall submit a written report to the 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 commitments and the associated calculation made by the office and the period of time over which tax credits are expected to be paid;

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

(d) the estimated and actual costs and economic benefits of the tax credit 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 ~~{15}~~17. Section **63M-1-3411** is enacted to read:

63M-1-3411. ~~Stay~~ Stay Another Day and Bounce Back ~~{Account}~~Fund.

(1) As used in this section:

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

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

(2) There is created ~~{within the General Fund a restricted account}~~an expendable special revenue fund known as the Stay Another Day and Bounce Back ~~{Account}~~.

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~~(3) The account} Fund.~~

(3) The bounce back fund shall:

(a) be administered by the tourism board;

(b) earn interest; and

(c) be funded by:

(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-1-3412; 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 18. Section 63M-1-3412 is enacted 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 built 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) ~~annual payments under Section 17-31-9 from}~~ payments required to be deposited into the mitigation fund by the Division of Finance under Subsection 59-12-103(14);

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(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 ~~{that the Legislature chooses to appropriate to}~~ deposited into the ~~{account}~~ mitigation fund under Subsection (6).

(4) Interest earned by the ~~{account}~~ mitigation fund shall be deposited into the ~~{account}~~.

~~— (5) The board may use money in the account 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.~~

~~— (6) The } mitigation fund.~~

(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 ~~{shall}~~.

~~— (a) certify money deposited into the account as set aside for the account; and~~

~~— (b) report money deposited into the account to the Office of the Legislative Fiscal Analyst.~~

~~— Section 16} for deposit into the mitigation fund.~~

(7) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

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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 19. Section ~~{63M-1-3412}~~63M-1-3413 is enacted to read:

~~{63M-1-3412}~~63M-1-3413.~~{ Authorized}~~ Authorized expenditures of tax credit money.

(1) A tax credit recipient may spend money received as a direct result of 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:

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

(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).

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

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

(b) public infrastructure; and

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

Section ~~{17}~~20. **Effective date.**

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

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

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Legislative Review Note

— as of ~~2-14-14~~ 3:49 PM

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~~Office of Legislative Research and General Counsel;~~ (3) The amendments to Section 59-12-103 (Effective 07/01/14) take effect on July 1, 2014.