

1 **NEW CONVENTION FACILITIES DEVELOPMENT**

2 **INCENTIVE ACT AMENDMENTS**

3 2015 GENERAL SESSION

4 STATE OF UTAH

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

6 Senate Sponsor: J. Stuart Adams

8 **LONG TITLE**

9 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ modifies the incentive for the development of new convention facilities from an
15 income tax credit to payments of sales and use tax money from a restricted special
16 revenue fund;
- 17 ▶ provides for new tax revenue from a qualified hotel to be placed into a restricted
18 special revenue fund;
- 19 ▶ establishes a restricted special revenue fund and provides for its funding;
- 20 ▶ modifies duties of the independent review committee;
- 21 ▶ modifies provisions relating to the submission of a claim for a convention incentive
22 and the processing of a claim;
- 23 ▶ modifies provisions relating to incremental property tax revenue; and
- 24 ▶ modifies provisions relating to the authorized use of a convention incentive.

25 **Money Appropriated in this Bill:**

26 None

27 **Other Special Clauses:**

28 This bill provides a special effective date.

29 **Utah Code Sections Affected:**

30 AMENDS:

31 **63M-1-3402**, as enacted by Laws of Utah 2014, Chapter 429

32 **63M-1-3403**, as enacted by Laws of Utah 2014, Chapter 429

33 **63M-1-3404**, as enacted by Laws of Utah 2014, Chapter 429

34 **63M-1-3405**, as enacted by Laws of Utah 2014, Chapter 429

35 **63M-1-3407**, as enacted by Laws of Utah 2014, Chapter 429

36 **63M-1-3408**, as enacted by Laws of Utah 2014, Chapter 429

37 **63M-1-3409**, as enacted by Laws of Utah 2014, Chapter 429

38 **63M-1-3410**, as enacted by Laws of Utah 2014, Chapter 429

39 **63M-1-3411**, as enacted by Laws of Utah 2014, Chapter 429

40 **63M-1-3412**, as enacted by Laws of Utah 2014, Chapter 429

41 **63M-1-3413**, as enacted by Laws of Utah 2014, Chapter 429

42 ENACTS:

43 **63M-1-3403.5**, Utah Code Annotated 1953

44 REPEALS:

45 **59-7-616**, as enacted by Laws of Utah 2014, Chapter 429

46 **59-10-1110**, as enacted by Laws of Utah 2014, Chapter 429

47 **63M-1-3406**, as enacted by Laws of Utah 2014, Chapter 429



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

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

51 **63M-1-3402. Definitions.**

52 As used in this part:

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

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

58 qualified hotel begins.

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

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

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

65 ~~[(2)]~~ (6) "Commission" means the Utah State Tax Commission.

66 ~~[(3)]~~ (7) "Community development and renewal agency" ~~[has the same meaning as]~~
67 means the same as that term is defined in Section 17C-1-102.

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

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

74 ~~[(4)]~~ (10) "Eligibility period" means:

75 (a) the period that:

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

77 (ii) ends:

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

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

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

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

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

86 [(5)] (11) "Endorsement letter" means a letter:

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

88 (b) signed by the county executive; and

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

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

91 [(6)] (12) "Host agency" means the community development and renewal agency of the
92 host local government.

93 [(7)] (13) "Host local government" means:

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

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

98 [(8)] (14) "Hotel property" means a qualified hotel and any property that is included in
99 the same development as the qualified hotel, including convention, exhibit, and meeting space,
100 retail shops, restaurants, parking, and other ancillary facilities and amenities.

101 (15) "Incentive fund" means the Convention Incentive Fund created in Section
102 63M-1-3403.5.

103 [(9)] (16) "Incremental property tax revenue" means the amount of property tax
104 revenue generated from hotel property that equals the difference between:

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

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

110 [(10)] (17) "Local portion" means[:(a)] the portion of new tax revenue that is [not the
111 ~~state portion; and~~] generated by local taxes.

112 [~~(b) incremental property tax revenue.~~]

113 (18) "Local taxes" means a tax imposed under:

- 114 (a) Section 59-12-204;
- 115 (b) Section 59-12-301;
- 116 (c) Sections 59-12-352 and 59-12-353;
- 117 (d) Subsection 59-12-603(1)(a)(i)(A);
- 118 (e) Subsection 59-12-603(1)(a)(i)(B);
- 119 (f) Subsection 59-12-603(1)(a)(ii);
- 120 (g) Subsection 59-12-603(1)(a)(iii); or
- 121 (h) Section 59-12-1102.

122 ~~[(H)]~~ (19) "New tax revenue" means~~[:]~~ construction revenue, offsite revenue, and
 123 onsite revenue.

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

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

129 ~~[(c) all new]~~ (20) "Offsite revenue" means revenue generated from ~~[a tax under Title~~
 130 ~~59, Chapter 12, Sales and Use Tax Act,]~~ state taxes and local taxes imposed on transactions by
 131 a third-party seller occurring other than on hotel property during the eligibility period, if:

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

134 ~~[(ii)]~~ (b) the third-party seller voluntarily consents to the disclosure of information to
 135 the office, as provided in Subsection ~~63M-1-3405~~~~[(+)]~~~~(2)~~(b)(i)(E).

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

138 ~~[(12)]~~ (22) "Public infrastructure" means:

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

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

142 transportation facilities; and

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

144 ~~[(13)]~~ (23) "Qualified hotel" means a full-service hotel development constructed in the
145 state on or after July 1, 2014 that:

146 (a) requires a significant capital investment;

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

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

151 ~~[(14)]~~ (24) "Qualified hotel owner" means a person who owns a qualified hotel.

152 ~~[(15)]~~ (25) "Review committee" means the independent review committee established
153 under Section 63M-1-3404.

154 ~~[(16)]~~ (26) "Significant capital investment" means an amount of at least \$200,000,000.

155 ~~[(17)]~~ (27) "State portion" means the portion of new tax revenue that is ~~[attributable to~~
156 ~~a tax imposed under Subsection 59-12-103(2)(a)(i)(A)]~~ generated by state taxes.

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

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

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

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

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

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

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

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

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

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

170 (28) "State taxes" means a tax imposed under Subsection 59-12-103(2)(a)(i), (2)(b)(i),
171 (2)(c)(i), or (2)(d)(i)(A).

172 [~~22~~] (29) "Third-party seller" means a person who is a seller in a transaction:

173 (a) occurring other than on hotel property;

174 (b) that is:

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

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

180 (c) that is subject to a tax under Title 59, Chapter 12, Sales and Use Tax Act.
181 Section 2. Section **63M-1-3403** is amended to read:

182 **63M-1-3403. Agreement for development of new convention hotel -- Convention**
183 **incentive authorized -- Agreement requirements.**

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

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

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

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

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

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

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

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

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

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

- 198 (2) An agreement under Subsection (1) shall:
- 199 (a) specify the requirements for ~~[a tax credit recipient]~~ the qualified hotel owner or host
- 200 local government to qualify for a ~~[tax credit]~~ convention incentive;
- 201 (b) require compliance with the terms of the endorsement letter issued by the county in
- 202 which the qualified hotel is proposed to be located;
- 203 (c) require the amount of ~~[a tax credit listed in a tax credit certificate issued during]~~
- 204 certified claims for the first two years of the eligibility period to be reduced by \$1,900,000 per
- 205 year;
- 206 (d) with respect to the state portion of ~~[any tax credit that the tax credit recipient may~~
- 207 ~~receive during the eligibility period]~~ the convention incentive:
- 208 (i) specify the maximum dollar amount that the ~~[tax credit recipient]~~ qualified hotel
- 209 owner or host local government may receive, subject to a maximum of:
- 210 (A) for any ~~[taxable]~~ calendar year, the amount of the state portion ~~[of new tax~~
- 211 ~~revenue]~~ in that ~~[taxable]~~ calendar year; and
- 212 (B) \$75,000,000 in the aggregate for ~~[any tax credit recipient]~~ the qualified hotel owner
- 213 or host local government during an eligibility period, calculated as though the two \$1,900,000
- 214 reductions of the tax credit amount under Subsection (1)(b)(iv) had not occurred; and
- 215 (ii) specify the maximum percentage of the state portion ~~[of new tax revenue]~~ that may
- 216 be used in calculating ~~[a tax credit that a tax credit recipient]~~ the portion of the convention
- 217 incentive that the qualified hotel owner or host local government may receive during the
- 218 eligibility period for each ~~[taxable]~~ calendar year and in the aggregate;
- 219 (e) establish a shorter period of time than the period described in Subsection
- 220 [63M-1-3402\(5\)\(a\)](#) during which the ~~[tax credit recipient may claim a tax credit]~~ qualified hotel
- 221 owner or host local government may claim the convention incentive or that the host agency
- 222 may be paid incremental property tax revenue, if the office and qualified hotel owner or host
- 223 local government agree to a shorter period of time;
- 224 (f) require the ~~[tax credit recipient]~~ qualified hotel owner to retain books and records
- 225 supporting a claim for ~~[a tax credit]~~ the convention incentive as required by Section [59-1-1406](#);

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

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

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

233 (3) Notwithstanding any other provision of law, a county or city in which a qualified
234 hotel is located may contribute property to the qualified hotel owner or host local government
235 without consideration, to be used as provided in Subsection [63M-1-3408\(3\)\(a\)](#).

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

237 **63M-1-3403.5. Convention Incentive Fund.**

238 (1) There is created an expendable special revenue fund known as the Convention
239 Incentive Fund.

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

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

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

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

248 (b) To the extent the commission is able to identify sellers involved in transactions
249 generating state taxes or local taxes before the payment of those taxes, the commission shall
250 deposit new tax revenue directly into the incentive fund, notwithstanding Subsection
251 [59-12-103\(3\)](#) and before the allocations required by Section [59-12-204](#), Subsection
252 [59-12-205\(2\)](#), Section [59-12-401](#), Section [59-12-603](#), and Section [59-12-1102](#).

253 (c) The commission shall, within 30 days after the office provides the information

254 required under Subsection 63M-1-3405(7)(b):

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

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

260 (d) The commission may equalize over a 12-month period the withholding required
261 under Subsection (3)(c)(i) for a county, city, or town that requests equalization.

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

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

269 (6) Distributions of money from the incentive fund shall be in accordance with Section
270 63M-1-3405.

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

272 **63M-1-3404. Independent review committee.**

273 (1) In accordance with rules adopted by the office under Section [~~63M-1-3408~~]
274 63M-1-3409, the board shall establish a separate, independent review committee to~~[:]~~ provide
275 recommendations to the office regarding the terms and conditions of an agreement and to
276 consult with the office as provided in this part or in rule.

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

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

280 (2) The review committee shall consist of:

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

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

284 (c) two members appointed by:

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

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

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

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

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

297 (g) one member appointed by the board.

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

300 (b) A vacancy may be filled in the same manner as an appointment under Subsection
301 (2).

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

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

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

306 **63M-1-3405. Submission of written claim for convention incentive -- Disclosure**
307 **of tax returns and other information -- Determination of claim.**

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

- 310 ~~[(a) a written application for a tax credit certificate;]~~
- 311 (1) The office may not pay any money from the incentive fund to a qualified hotel
- 312 owner or host local government unless:
- 313 (a) the qualified hotel owner or host local government submits a claim and other
- 314 required documentation, as provided in this section; and
- 315 (b) the office approves and certifies the claim, as provided in this section.
- 316 (2) A qualified hotel owner or host local government that desires to qualify for a
- 317 convention incentive shall submit to the office:
- 318 (a) a written claim for a convention incentive;
- 319 (b) (i) for ~~[an application]~~ a claim submitted by a qualified hotel owner:
- 320 (A) a certification by the individual signing the ~~[application]~~ claim that the individual
- 321 is duly authorized to sign the ~~[application]~~ claim on behalf of the qualified hotel owner;
- 322 (B) documentation of the new tax revenue ~~previously~~ generated ~~[during the preceding~~
- 323 year], itemized by construction revenue, offsite revenue, onsite revenue, type of sales or use
- 324 tax, and the location of the transaction generating the new tax revenue as determined under
- 325 Sections [59-12-211](#), [59-12-211.1](#), [59-12-212](#), [59-12-213](#), [59-12-214](#), and [59-12-215](#);
- 326 (C) the identity of sellers collecting onsite revenue and the date the sellers will begin
- 327 collecting onsite revenue;
- 328 ~~[(E)]~~ (D) a document in which the qualified hotel owner expressly directs and
- 329 authorizes the commission to disclose to the office the qualified hotel owner's tax returns and
- 330 other information that would otherwise be subject to confidentiality under Section [59-1-403](#) or
- 331 Section 6103, Internal Revenue Code;
- 332 ~~[(D)]~~ (E) a document in which the qualified hotel's direct vendors, lessees, or
- 333 subcontractors, as applicable, expressly direct and authorize the commission to disclose to the
- 334 office the tax returns and other information of those vendors, lessees, or subcontractors that
- 335 would otherwise be subject to confidentiality under Section [59-1-403](#) or Section 6103, Internal
- 336 Revenue Code;
- 337 ~~[(E)]~~ (F) a document in which a third-party seller expressly and voluntarily directs and

338 authorizes the commission to disclose to the office the third-party seller's tax returns and other
339 information that would otherwise be subject to confidentiality under Section 59-1-403 or
340 Section 6103, Internal Revenue Code; ~~and~~

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

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

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

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

353 (d) ~~[a statement provided by]~~ an audit level attestation, or other level of review
354 approved by the office, from an independent certified public accountant, [at the tax credit
355 applicant's expense] hired by the claimant, attesting to the accuracy [of the documentation of
356 new tax revenue] and validity of the amount of the state portion and the local portion being
357 claimed by the claimant.

358 ~~[(2)]~~ (3) (a) The office shall submit to the commission the documents described in
359 Subsections ~~[(1)]~~ (2)(b)(i)(C), (D), and (E) and ~~[(1)]~~ (2)(c)~~[(ii)]~~ authorizing disclosure of the
360 tax returns and other information.

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

363 ~~[(3)]~~ (4) If the office determines that the tax returns and other information ~~[is]~~ are
364 inadequate to ~~[validate the issuance of a tax credit certificate]~~ enable the office to approve and
365 certify a claim, the office shall inform the ~~[tax credit applicant]~~ claimant that the tax returns

366 and other information were inadequate and request the tax credit applicant to submit additional
367 documentation to validate the ~~[issuance of a tax credit certificate]~~ claim.

368 ~~[(4)]~~ (5) If the office determines that the returns and other information, including any
369 additional documentation provided under Subsection ~~[(3);]~~ (4), comply with applicable
370 requirements and provide reasonable justification ~~[for the issuance of a tax credit certificate]~~ to
371 approve and certify the claim, the office shall:

372 (a) approve and certify the claim;

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

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

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

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

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

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

383 (a) for onsite revenue:

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

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

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

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

392 (b) for construction revenue and offsite revenue:

393 (i) the amount of new tax revenue authorized under the agreement constituting

394 construction revenue or offsite revenue;

395 (ii) the location of the transactions generating the construction revenue and offsite
396 revenue, as determined under Sections [59-12-211](#), [59-12-211.1](#), [59-12-212](#), [59-12-213](#),
397 [59-12-214](#), and [59-12-215](#); and

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

400 (c) any other information the commission requires.

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

402 **63M-1-3407. Assigning convention incentive.**

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

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

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

410 **63M-1-3408. Payment of incremental property tax revenue.**

411 (1) As used in this section:

412 (a) "Displaced tax increment" means the amount of tax increment that a county would
413 have paid to the host agency, except for Subsection (2)(b), from tax increment revenue
414 generated from the project area in which the hotel property is located.

415 (b) "Secured obligations" means bonds or other obligations of a host agency for the
416 payment of which the host agency has, before March 13, 2015, pledged tax increment
417 generated from the project area in which the hotel property is located.

418 (c) "Tax increment" means the same as that term is defined in Section [17C-1-102](#).

419 (d) "Tax increment shortfall" means the amount of displaced tax increment a host
420 agency needs to receive, in addition to any other tax increment the host agency receives from
421 the project area in which the hotel property is located, to provide the host agency sufficient tax

422 increment funds to be able to pay the debt service on its secured obligations.

423 ~~[(1)]~~ (2) (a) In accordance with rules adopted by the office~~[-a host agency shall be~~
424 ~~paid]~~ and subject to Subsection (5), a county in which a qualified hotel is located shall retain
425 incremental property tax revenue during the eligibility period.

426 (b) The amount of incremental property tax revenue that a county retains under
427 Subsection (2)(a) for a taxable year reduces by that amount any tax increment that the county
428 would otherwise have paid to the host agency for that year, subject to Subsection (5).

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

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

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

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

434 (iv) explains how the displaced tax increment will be used in the following taxable
435 year.

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

437 ~~[(i)]~~ (a) the purchase of or payment for, or reimbursement of a previous purchase of or
438 payment for:

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

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

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

445 ~~[(ii)]~~ (b) public infrastructure~~[-and].~~

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

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

450 ~~Section 59-2-1365;~~

451 (4) (a) Incremental property tax:

452 (i) is not tax increment; and

453 (ii) is not subject to:

454 (A) Title 17C, Limited Purpose Local Government Entities -- Community

455 Development and Renewal Agencies Act; or

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

457 (b) The payment and use of incremental property tax, as provided in this part, is not
 458 subject to the approval of any taxing entity, as defined in Section 17C-1-102.

459 (c) Revenue from an increase in the taxable value of hotel property is considered to be
 460 a redevelopment adjustment for purposes of calculating the certified tax rate under Section
 461 59-2-924.

462 (5) (a) Subject to Subsection (5)(b), a county may not spend the portion of incremental
 463 property tax revenue that is displaced tax increment until after 30 days after the county
 464 provides the notice required under Subsection (2)(c).

465 (b) If, within 30 days after the county provides the notice required under Subsection
 466 (2)(c), a host agency provides written notice to the county that the host agency will experience
 467 a tax increment shortfall, the county shall, unless the host agency agrees otherwise, pay to the
 468 host agency displaced tax increment in the amount of the tax increment shortfall.

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

470 **63M-1-3409. Rulemaking authority -- Requirements for rules.**

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

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

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

477 (b) require that a significant capital investment be made in the development of the

478 hotel property;

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

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

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

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

486 **63M-1-3410. Report by office -- Posting of report.**

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

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

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

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

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

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

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

504 (a) referring to the two annual deposits required under Subsection [59-12-103](#)[(14)](13);
505 and

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

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

508 **63M-1-3411. Stay Another Day and Bounce Back Fund.**

509 (1) As used in this section:

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

512 (b) "Tourism board" means the Board of Tourism Development created in Section
513 [63M-1-1401](#).

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

516 (3) The bounce back fund shall:

517 (a) be administered by the tourism board;

518 (b) earn interest; and

519 (c) be funded by:

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

522 (ii) money transferred to the bounce back fund under Section [63M-1-3403.5](#) or
523 [63M-1-3412](#); and

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

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

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

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

532 **63M-1-3412. Hotel Impact Mitigation Fund.**

533 (1) As used in this section:

- 534 (a) "Affected hotel" means a hotel built in the state before July 1, 2014.
- 535 (b) "Direct losses" means affected hotels' losses of hotel guest business attributable to
536 the qualified hotel room supply being added to the market in the state.
- 537 (c) "Mitigation fund" means the Hotel Impact Mitigation Fund, created in Subsection
538 (2).
- 539 (2) There is created an expendable special revenue fund known as the Hotel Impact
540 Mitigation Fund.
- 541 (3) The mitigation fund shall:
- 542 (a) be administered by the board;
- 543 (b) earn interest; and
- 544 (c) be funded by:
- 545 (i) payments required to be deposited into the mitigation fund by the Division of
546 Finance under Subsection [59-12-103](#)~~[(14)]~~[(13)];
- 547 (ii) money required to be deposited into the mitigation fund under Subsection
548 [17-31-9](#)(2) by the county in which a qualified hotel is located; and
- 549 (iii) any money deposited into the mitigation fund under Subsection (6).
- 550 (4) Interest earned by the mitigation fund shall be deposited into the mitigation fund.
- 551 (5) (a) In accordance with office rules, the board shall annually pay up to \$2,100,000 of
552 money in the mitigation fund:
- 553 (i) to affected hotels;
- 554 (ii) for four consecutive years, beginning 12 months after the date of initial occupancy
555 of the qualified hotel occurs; and
- 556 (iii) to mitigate direct losses.
- 557 (b) (i) If the amount the board pays under Subsection (5)(a) in any year is less than
558 \$2,100,000, the board shall pay to the Stay Another Day and Bounce Back Fund, created in
559 Section [63M-1-3411](#), the difference between \$2,100,000 and the amount paid under Subsection
560 (5)(a).
- 561 (ii) The board shall make any required payment under Subsection (5)(b)(i) within 90

562 days after the end of the year for which a determination is made of how much the board is
563 required to pay to affected hotels under Subsection (5)(a).

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

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

570 Section 12. Section **63M-1-3413** is amended to read:

571 **63M-1-3413. Authorized expenditures of convention incentive.**

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

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

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

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

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

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

586 (b) public infrastructure; and

587 (c) other purposes as ~~[approved by the host agency]~~ specified in the agreement.

588 Section 13. **Repealer.**

589 This bill repeals:

- 590 Section **59-7-616**, Refundable tax credit for certain business entities.
- 591 Section **59-10-1110**, Refundable tax credit for certain business entities.
- 592 Section **63M-1-3406**, Effect of tax credit certificate -- Retaining tax credit
- 593 **certificate.**
- 594 Section 14. **Effective date.**
- 595 This bill takes effect on July 1, 2015.