

1 **INCOME TAX - TAXATION OF**
2 **INDIVIDUALS, ESTATES, AND TRUSTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Lyle W. Hillyard**

6 House Sponsor: Wayne A. Harper

7
8 **LONG TITLE**

9 **General Description:**

10 This bill amends the Revenue and Taxation title and the State Affairs in General title
11 relating to the income taxation of individuals, estates, and trusts.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides and modifies definitions;
- 15 ▶ modifies the additions to and subtractions from federal taxable income of a resident
16 or nonresident individual;
- 17 ▶ modifies the adjustments to state taxable income for purposes of individual income
18 taxes;
- 19 ▶ modifies the additions to and subtractions from federal taxable income of a resident
20 or nonresident estate or trust;
- 21 ▶ modifies the adjustments to state taxable income for purposes of income taxes on
22 estates and trusts;
- 23 ▶ modifies the fiduciary adjustments for purposes of income taxes on estates and
24 trusts;
- 25 ▶ creates the Nonrefundable Tax Credit Act and renumbers and amends as part of this
26 Act the nonrefundable income tax credits authorized under the Individual Income
27 Tax Act;



28 ▶ creates the Refundable Tax Credit Act and renumbers and amends as part of this
29 Act the refundable income tax credits authorized under the Individual Income Tax
30 Act;

31 ▶ addresses which of the nonrefundable and refundable income tax credits an estate or
32 trust may claim;

33 ▶ repeals obsolete language; and

34 ▶ makes technical changes.

35 **Monies Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 This bill has retrospective operation for taxable years beginning on or after January 1,
39 2006.

40 **Utah Code Sections Affected:**

41 AMENDS:

42 **19-1-403**, as last amended by Chapter 108 and renumbered and amended by Chapter
43 294, Laws of Utah 2005

44 **19-1-404**, as renumbered and amended by Chapter 294, Laws of Utah 2005

45 **19-2-104**, as last amended by Chapter 131, Laws of Utah 2003

46 **53B-8a-106**, as last amended by Chapter 109, Laws of Utah 2005

47 **59-2-102**, as last amended by Chapters 162, 243, 281 and 303, Laws of Utah 2004

48 **59-6-101**, as last amended by Chapter 3, Laws of Utah 1988

49 **59-6-102**, as last amended by Chapter 28, Laws of Utah 2002

50 **59-7-607**, as last amended by Chapter 113, Laws of Utah 2005

51 **59-7-614**, as last amended by Chapters 217, 244 and 294, Laws of Utah 2005

52 **59-7-703**, as last amended by Chapter 110, Laws of Utah 2003

53 **59-10-103**, as last amended by Chapter 241, Laws of Utah 2005

54 **59-10-112**, as last amended by Chapter 345, Laws of Utah 1995

55 **59-10-114**, as last amended by Chapters 109 and 241, Laws of Utah 2005

56 **59-10-115**, as renumbered and amended by Chapter 2, Laws of Utah 1987

57 **59-10-201**, as last amended by Chapter 109, Laws of Utah 2005

58 **59-10-201.1**, as enacted by Chapter 345, Laws of Utah 1995

59 **59-10-202**, as last amended by Chapter 3, Laws of Utah 2003, Second Special Session
60 **59-10-207**, as last amended by Chapter 345, Laws of Utah 1995
61 **59-10-210**, as last amended by Chapter 345, Laws of Utah 1995
62 **59-13-202**, as last amended by Chapter 86, Laws of Utah 2000
63 **62A-4a-607**, as last amended by Chapter 327, Laws of Utah 2001
64 **63-38f-402**, as renumbered and amended by Chapter 148, Laws of Utah 2005
65 **63-38f-412**, as renumbered and amended by Chapter 148, Laws of Utah 2005
66 **63-38f-413**, as renumbered and amended by Chapter 148, Laws of Utah 2005
67 **63-38f-501**, as renumbered and amended by Chapter 148, Laws of Utah 2005
68 **63-38f-502**, as renumbered and amended by Chapter 148, Laws of Utah 2005
69 **63-38f-1102**, as renumbered and amended by Chapter 148, Laws of Utah 2005
70 **63-38f-1110**, as renumbered and amended by Chapter 148, Laws of Utah 2005
71 **63-38f-1203**, as renumbered and amended by Chapter 148, Laws of Utah 2005
72 **63-55-209**, as last amended by Chapters 37 and 90, Laws of Utah 2004

73 ENACTS:

74 **59-10-209.1**, Utah Code Annotated 1953
75 **59-10-1001**, Utah Code Annotated 1953
76 **59-10-1002**, Utah Code Annotated 1953
77 **59-10-1101**, Utah Code Annotated 1953
78 **59-10-1102**, Utah Code Annotated 1953

79 RENUMBERS AND AMENDS:

80 **59-10-1003**, (Renumbered from 59-10-106, as renumbered and amended by Chapter 2,
81 Laws of Utah 1987)
82 **59-10-1004**, (Renumbered from 59-10-108, as last amended by Chapter 73, Laws of
83 Utah 2001)
84 **59-10-1005**, (Renumbered from 59-10-108.1, as enacted by Chapter 272, Laws of Utah
85 1999)
86 **59-10-1006**, (Renumbered from 59-10-108.5, as last amended by Chapter 25, Laws of
87 Utah 1995)
88 **59-10-1007**, (Renumbered from 59-10-108.7, as last amended by Chapter 148, Laws of
89 Utah 2005)

90 **59-10-1008**, (Renumbered from 59-10-109, as last amended by Chapter 198, Laws of
91 Utah 2003)

92 **59-10-1009**, (Renumbered from 59-10-127, as last amended by Chapters 108 and 294,
93 Laws of Utah 2005)

94 **59-10-1010**, (Renumbered from 59-10-129, as last amended by Chapter 113, Laws of
95 Utah 2005)

96 **59-10-1011**, (Renumbered from 59-10-130, as last amended by Chapter 145, Laws of
97 Utah 2002)

98 **59-10-1012**, (Renumbered from 59-10-131, as last amended by Chapter 59, Laws of
99 Utah 1999)

100 **59-10-1013**, (Renumbered from 59-10-132, as last amended by Chapter 59, Laws of
101 Utah 1999)

102 **59-10-1014**, (Renumbered from 59-10-134, as last amended by Chapters 217, 244 and
103 294, Laws of Utah 2005)

104 **59-10-1015**, (Renumbered from 59-10-134.2, as enacted by Chapter 290, Laws of Utah
105 2005)

106 **59-10-1016**, (Renumbered from 59-10-135, as enacted by Chapter 62, Laws of Utah
107 2002)

108 **59-10-1103**, (Renumbered from 59-10-108.2, as last amended by Chapter 110, Laws of
109 Utah 2003)

110 **59-10-1104**, (Renumbered from 59-10-133, as last amended by Chapter 263, Laws of
111 Utah 2005)

112 **59-10-1105**, (Renumbered from 59-10-134.1, as enacted by Chapter 312, Laws of Utah
113 2003)

114 REPEALS:

115 **59-10-128**, as last amended by Chapter 198, Laws of Utah 2003

116 **59-10-209**, as last amended by Chapter 345, Laws of Utah 1995



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

119 Section 1. Section **19-1-403** is amended to read:

120 **19-1-403. Clean Fuels Vehicle Fund -- Contents -- Loans or grants made with**

121 **fund monies.**

122 (1) (a) There is created a revolving fund known as the Clean Fuels Vehicle Fund.

123 (b) The fund consists of:

124 (i) appropriations to the fund;

125 (ii) other public and private contributions made under Subsection (1)(d);

126 (iii) interest earnings on cash balances; and

127 (iv) all monies collected for loan repayments and interest on loans.

128 (c) All money appropriated to the fund is nonlapsing.

129 (d) The department may accept contributions from other public and private sources for
130 deposit into the fund.131 (2) (a) Except as provided in Subsection (3), the department may make loans or grants
132 with monies available in the fund for:133 (i) the conversion of private sector business vehicles and government vehicles to use a
134 clean fuel, if certified by the Air Quality Board; or135 (ii) the purchase of OEM vehicles for use as private sector business vehicles or
136 government vehicles.

137 (b) The amount of a loan for any vehicle may not exceed:

138 (i) the actual cost of the vehicle conversion;

139 (ii) the incremental cost of purchasing the OEM vehicle; or

140 (iii) the cost of purchasing the OEM vehicle if there is no documented incremental
141 cost.

142 (c) The amount of a grant for any vehicle may not exceed:

143 (i) 50% of the actual cost of the vehicle conversion minus the amount of any tax credit
144 claimed under Section 59-7-605 or [~~59-10-127~~] 59-10-1009 for the vehicle for which a grant is
145 requested; or146 (ii) 50% of the incremental cost of purchasing an OEM vehicle minus the amount of
147 any tax credit claimed under Section 59-7-605 or [~~59-10-127~~] 59-10-1009 for the vehicle for
148 which a grant is requested.149 (d) (i) Except as provided in Subsection (3) and subject to the availability of monies in
150 the fund, the department may make loans for the purchase of vehicle refueling equipment for
151 private sector business vehicles and government vehicles.

152 (ii) The maximum amount loaned per installation of refueling equipment may not
153 exceed the actual cost of the refueling equipment.

154 (3) Notwithstanding Subsection (2)(a) or (2)(d), the department may not make a loan or
155 grant under this part with respect to an electric-hybrid vehicle.

156 (4) Administrative costs of the fund shall be paid from the fund.

157 (5) (a) The fund balance may not exceed \$10,000,000.

158 (b) Interest on cash balances and repayment of loans in excess of the amount necessary
159 to maintain the fund balance at \$10,000,000 shall be deposited in the General Fund.

160 (6) (a) Loans made from monies in the fund shall be supported by loan documents
161 evidencing the intent of the borrower to repay the loan.

162 (b) The original loan documents shall be filed with the Division of Finance and a copy
163 shall be filed with the department.

164 Section 2. Section **19-1-404** is amended to read:

165 **19-1-404. Department duties -- Rulemaking -- Loan repayment.**

166 (1) The department shall:

167 (a) establish and administer the loan and grant program to encourage government
168 officials and private sector business vehicle owners and operators to obtain and use clean-fuel
169 vehicles; and

170 (b) make rules in accordance with Title 63, Chapter 46a, Utah Administrative
171 Rulemaking Act:

172 (i) specifying the amount of money in the fund to be dedicated annually for grants;

173 (ii) limiting the amount of a grant given to any person claiming a tax credit under
174 Section 59-7-605 or [~~59-10-127~~] 59-10-1009 for the motor vehicle for which a grant is
175 requested to assure that the sum of the tax credit and grant does not exceed:

176 (A) 50% of the incremental cost of the OEM vehicle; or

177 (B) 50% of the cost of conversion equipment;

178 (iii) limiting the number of motor vehicles per fleet operator that may be eligible for a
179 grant in a year;

180 (iv) specifying criteria the department shall consider in prioritizing and awarding loans
181 and grants;

182 (v) specifying repayment periods;

- 183 (vi) specifying procedures for:
184 (A) awarding loans and grants; and
185 (B) collecting loans; and
186 (vii) requiring all loan and grant applicants to:
187 (A) apply on forms provided by the department;
188 (B) agree in writing to use the clean fuel for which each vehicle is converted or
189 purchased using loan or grant proceeds for a minimum of 70% of the vehicle miles traveled
190 beginning from the time of conversion or purchase of the vehicle;
191 (C) agree in writing to notify the department if a vehicle converted or purchased using
192 loan or grant proceeds becomes inoperable through mechanical failure or accident and to
193 pursue a remedy outlined in department rules;
194 (D) provide reasonable data to the department on vehicles converted or purchased with
195 loan or grant proceeds; and
196 (E) submit vehicles converted or purchased with loan or grant proceeds to inspections
197 by the department as required in department rules and as necessary for administration of the
198 loan and grant program.
- 199 (2) (a) When developing repayment schedules for the loans, the department shall
200 consider the projected savings from use of the clean-fuel vehicle.
201 (b) A repayment schedule may not exceed ten years.
202 (c) Loans made from the fund for private sector vehicles shall be made at an interest
203 rate equal to the annual return earned in the state treasurer's Public Treasurer's Pool as
204 determined the month immediately preceding the closing date of the loan.
205 (d) Loans made from the fund for government vehicles shall be made at a zero interest
206 rate.
- 207 (3) The Division of Finance is responsible for collection of and accounting for the
208 loans and has custody of all loan documents, including all notes and contracts, evidencing the
209 indebtedness of the fund.
- 210 Section 3. Section **19-2-104** is amended to read:
211 **19-2-104. Powers of board.**
212 (1) The board may make rules in accordance with Title 63, Chapter 46a, Utah
213 Administrative Rulemaking Act:

214 (a) regarding the control, abatement, and prevention of air pollution from all sources
215 and the establishment of the maximum quantity of air contaminants that may be emitted by any
216 air contaminant source;

217 (b) establishing air quality standards;

218 (c) requiring persons engaged in operations which result in air pollution to:

219 (i) install, maintain, and use emission monitoring devices, as the board finds necessary;

220 (ii) file periodic reports containing information relating to the rate, period of emission,
221 and composition of the air contaminant; and

222 (iii) provide access to records relating to emissions which cause or contribute to air
223 pollution;

224 (d) implementing 15 U.S.C.A. 2601 et seq. Toxic Substances Control Act, Subchapter
225 II - Asbestos Hazard Emergency Response, and reviewing and approving asbestos management
226 plans submitted by local education agencies under that act;

227 (e) establishing a requirement for a diesel emission opacity inspection and maintenance
228 program for diesel-powered motor vehicles;

229 (f) implementing an operating permit program as required by and in conformity with
230 Titles IV and V of the federal Clean Air Act Amendments of 1990;

231 (g) establishing requirements for county emissions inspection and maintenance
232 programs after obtaining agreement from the counties that would be affected by the
233 requirements;

234 (h) with the approval of the governor, implementing in air quality nonattainment areas
235 employer-based trip reduction programs applicable to businesses having more than 100
236 employees at a single location and applicable to federal, state, and local governments to the
237 extent necessary to attain and maintain ambient air quality standards consistent with the state
238 implementation plan and federal requirements under the standards set forth in Subsection (2);
239 and

240 (i) implementing lead-based paint remediation training, certification, and performance
241 requirements in accordance with 15 U.S.C.A. 2601 et seq., Toxic Substances Control Act,
242 Subchapter IV -- Lead Exposure Reduction, Sections 402 and 406.

243 (2) When implementing Subsection (1)(h) the board shall take into consideration:

244 (a) the impact of the business on overall air quality; and

245 (b) the need of the business to use automobiles in order to carry out its business
246 purposes.

247 (3) The board may:

248 (a) hold hearings relating to any aspect of or matter in the administration of this chapter
249 and compel the attendance of witnesses and the production of documents and other evidence,
250 administer oaths and take testimony, and receive evidence as necessary;

251 (b) issue orders necessary to enforce the provisions of this chapter, enforce the orders
252 by appropriate administrative and judicial proceedings, and institute judicial proceedings to
253 secure compliance with this chapter;

254 (c) settle or compromise any civil action initiated to compel compliance with this
255 chapter and the rules made under this chapter;

256 (d) secure necessary scientific, technical, administrative, and operational services,
257 including laboratory facilities, by contract or otherwise;

258 (e) prepare and develop a comprehensive plan or plans for the prevention, abatement,
259 and control of air pollution in this state;

260 (f) encourage voluntary cooperation by persons and affected groups to achieve the
261 purposes of this chapter;

262 (g) encourage local units of government to handle air pollution within their respective
263 jurisdictions on a cooperative basis and provide technical and consultative assistance to them;

264 (h) encourage and conduct studies, investigations, and research relating to air
265 contamination and air pollution and their causes, effects, prevention, abatement, and control;

266 (i) determine by means of field studies and sampling the degree of air contamination
267 and air pollution in all parts of the state;

268 (j) monitor the effects of the emission of air contaminants from motor vehicles on the
269 quality of the outdoor atmosphere in all parts of this state and take appropriate action with
270 respect to them;

271 (k) collect and disseminate information and conduct educational and training programs
272 relating to air contamination and air pollution;

273 (l) advise, consult, contract, and cooperate with other agencies of the state, local
274 governments, industries, other states, interstate or interlocal agencies, the federal government,
275 and with interested persons or groups;

276 (m) consult, upon request, with any person proposing to construct, install, or otherwise
277 acquire an air contaminant source in the state concerning the efficacy of any proposed control
278 device, or system for this source, or the air pollution problem which may be related to the
279 source, device, or system, but a consultation does not relieve any person from compliance with
280 this chapter, the rules adopted under it, or any other provision of law;

281 (n) accept, receive, and administer grants or other funds or gifts from public and
282 private agencies, including the federal government, for the purpose of carrying out any of the
283 functions of this chapter;

284 (o) require the owner and operator of each new source which directly emits or has the
285 potential to emit 100 tons per year or more of any air contaminant or the owner or operator of
286 each existing source which by modification will increase emissions or have the potential of
287 increasing emissions by 100 tons per year or more of any air contaminant, to pay a fee
288 sufficient to cover the reasonable costs of:

289 (i) reviewing and acting upon the notice required under Section 19-2-108; and

290 (ii) implementing and enforcing requirements placed on the sources by any approval
291 order issued pursuant to notice, not including any court costs associated with any enforcement
292 action;

293 (p) assess and collect noncompliance penalties as required in Section 120 of the federal
294 Clean Air Act, 42 U.S.C. Sec. 7420;

295 (q) meet the requirements of federal air pollution laws;

296 (r) establish work practice, certification, and clearance air sampling requirements for
297 persons who:

298 (i) contract for hire to conduct demolition, renovation, salvage, encapsulation work
299 involving friable asbestos-containing materials, or asbestos inspections; or

300 (ii) conduct work described in Subsection (3)(r)(i) in areas to which the general public
301 has unrestrained access or in school buildings that are subject to the federal Asbestos Hazard
302 Emergency Response Act of 1986;

303 (iii) conduct asbestos inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
304 Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response; or

305 (iv) conduct lead paint inspections in facilities subject to 15 U.S.C.A. 2601 et seq.,
306 Toxic Substances Control Act, Subchapter IV -- Lead Exposure Reduction;

307 (s) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
308 seq., Toxic Substances Control Act, Subchapter II - Asbestos Hazard Emergency Response, to
309 be accredited as inspectors, management planners, abatement project designers, asbestos
310 abatement contractors and supervisors, or asbestos abatement workers;

311 (t) establish certification requirements for asbestos project monitors, which shall
312 provide for experience-based certification of persons who, prior to establishment of the
313 certification requirements, had received relevant asbestos training, as defined by rule, and had
314 acquired at least 1,000 hours of experience as project monitors;

315 (u) establish certification procedures and requirements for certification of the
316 conversion of a motor vehicle to a clean-fuel vehicle, certifying the vehicle is eligible for the
317 tax credit granted in Section 59-7-605 or [~~59-10-127~~] 59-10-1009;

318 (v) establish a program to certify private sector air quality permitting professionals
319 (AQPP), as described in Section 19-2-109.5; and

320 (w) establish certification requirements for persons required under 15 U.S.C.A. 2601 et
321 seq., Toxic Control Act, Subchapter IV -- Lead Exposure Reduction, to be accredited as
322 inspectors, risk assessors, supervisors, project designers, or abatement workers.

323 (4) Any rules adopted under this chapter shall be consistent with provisions of federal
324 laws, if any, relating to control of motor vehicles or motor vehicle emissions.

325 (5) Nothing in this chapter authorizes the board to require installation of or payment for
326 any monitoring equipment by the owner or operator of a source if the owner or operator has
327 installed or is operating monitoring equipment that is equivalent to equipment which the board
328 would require under this section.

329 Section 4. Section **53B-8a-106** is amended to read:

330 **53B-8a-106. Account agreements.**

331 The trust may enter into account agreements with account owners on behalf of
332 beneficiaries under the following terms and agreements:

333 (1) (a) An account agreement may require an account owner to agree to invest a
334 specific amount of money in the trust for a specific period of time for the benefit of a specific
335 beneficiary, not to exceed an amount determined by the program administrator.

336 (b) Account agreements may be amended to provide for adjusted levels of payments
337 based upon changed circumstances or changes in educational plans.

338 (c) An account owner may make additional optional payments as long as the total
339 payments for a specific beneficiary do not exceed the total estimated higher education costs as
340 determined by the program administrator.

341 (d) The maximum amount of investments that may be subtracted from federal taxable
342 income of a resident or nonresident individual under Subsection 59-10-114(2)(~~f~~) (i) shall be
343 \$1,510 for each individual beneficiary for the 2005 calendar year and an amount adjusted
344 annually thereafter to reflect increases in the Consumer Price Index.

345 (2) (a) (i) Beneficiaries designated in account agreements must be designated after
346 birth and before age 19 for the participant to subtract allowable investments from federal
347 taxable income under Subsection 59-10-114(2)(~~f~~) (i).

348 (ii) If the beneficiary is designated after birth and before age 19, the payment of
349 benefits provided under the account agreement must begin not later than the beneficiary's 27th
350 birthday.

351 (b) (i) Account owners may designate beneficiaries age 19 or older, but investments for
352 those beneficiaries are not eligible for subtraction from federal taxable income.

353 (ii) If a beneficiary age 19 or older is designated, the payment of benefits provided
354 under the account agreement must begin not later than ten years from the account agreement
355 date.

356 (3) Each account agreement shall state clearly that there are no guarantees regarding
357 moneys in the trust as to the return of principal and that losses could occur.

358 (4) Each account agreement shall provide that:

359 (a) no contributor to, or designated beneficiary under, an account agreement may direct
360 the investment of any contributions or earnings on contributions;

361 (b) no part of the money in any account may be used as security for a loan; and

362 (c) no account owner may borrow from the trust.

363 (5) The execution of an account agreement by the trust may not guarantee in any way
364 that higher education costs will be equal to projections and estimates provided by the trust or
365 that the beneficiary named in any participation agreement will:

366 (a) be admitted to an institution of higher education;

367 (b) if admitted, be determined a resident for tuition purposes by the institution of
368 higher education, unless the account agreement is vested;

369 (c) be allowed to continue attendance at the institution of higher education following
370 admission; or

371 (d) graduate from the institution of higher education.

372 (6) Beneficiaries may be changed as permitted by the rules and regulations of the board
373 upon written request of the account owner prior to the date of admission of any beneficiary
374 under an account agreement by an institution of higher education so long as the substitute
375 beneficiary is eligible for participation.

376 (7) Account agreements may be freely amended throughout their terms in order to
377 enable account owners to increase or decrease the level of participation, change the designation
378 of beneficiaries, and carry out similar matters as authorized by rule.

379 (8) Each account agreement shall provide that:

380 (a) the account agreement may be canceled upon the terms and conditions, and upon
381 payment of the fees and costs set forth and contained in the board's rules and regulations; and

382 (b) the program administrator may amend the agreement unilaterally and retroactively,
383 if necessary, to maintain the trust as a qualified tuition program under Section 529 Internal
384 Revenue Code.

385 Section 5. Section **59-2-102** is amended to read:

386 **59-2-102. Definitions.**

387 As used in this chapter and title:

388 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
389 engaging in dispensing activities directly affecting agriculture or horticulture with an
390 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or
391 rotorcraft's use for agricultural and pest control purposes.

392 (2) "Air charter service" means an air carrier operation which requires the customer to
393 hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled
394 trip.

395 (3) "Air contract service" means an air carrier operation available only to customers
396 who engage the services of the carrier through a contractual agreement and excess capacity on
397 any trip and is not available to the public at large.

398 (4) "Aircraft" is as defined in Section 72-10-102.

399 (5) "Airline" means any air carrier operating interstate routes on a scheduled basis

400 which offers to fly passengers or cargo on the basis of available capacity on regularly scheduled
401 routes.

402 (6) "Assessment roll" means a permanent record of the assessment of property as
403 assessed by the county assessor and the commission and may be maintained manually or as a
404 computerized file as a consolidated record or as multiple records by type, classification, or
405 categories.

406 (7) "Certified revenue levy" means a property tax levy that provides the same amount
407 of ad valorem property tax revenue as was collected for the prior year, plus new growth, but
408 exclusive of revenue from collections from redemptions, interest, and penalties.

409 (8) "County-assessed commercial vehicle" means:

410 (a) any commercial vehicle, trailer, or semitrailer which is not apportioned under
411 Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or
412 property in furtherance of the owner's commercial enterprise;

413 (b) any passenger vehicle owned by a business and used by its employees for
414 transportation as a company car or vanpool vehicle; and

415 (c) vehicles which are:

416 (i) especially constructed for towing or wrecking, and which are not otherwise used to
417 transport goods, merchandise, or people for compensation;

418 (ii) used or licensed as taxicabs or limousines;

419 (iii) used as rental passenger cars, travel trailers, or motor homes;

420 (iv) used or licensed in this state for use as ambulances or hearses;

421 (v) especially designed and used for garbage and rubbish collection; or

422 (vi) used exclusively to transport students or their instructors to or from any private,
423 public, or religious school or school activities.

424 (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801,
425 "designated tax area" means a tax area created by the overlapping boundaries of only the
426 following taxing entities:

427 (i) a county; and

428 (ii) a school district.

429 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created
430 by the overlapping boundaries of:

- 431 (i) the taxing entities described in Subsection (9)(a); and
- 432 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)
- 433 and the boundaries of the city or town are identical; or
- 434 (B) a special service district if the boundaries of the school district under Subsection
- 435 (9)(a) are located entirely within the special service district.
- 436 (10) "Eligible judgment" means a final and unappealable judgment or order under
- 437 Section 59-2-1330:
- 438 (a) that became a final and unappealable judgment or order no more than 14 months
- 439 prior to the day on which the notice required by Subsection 59-2-919(4) is required to be
- 440 mailed; and
- 441 (b) for which a taxing entity's share of the final and unappealable judgment or order is
- 442 greater than or equal to the lesser of:
- 443 (i) \$5,000; or
- 444 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
- 445 previous fiscal year.
- 446 (11) (a) "Escaped property" means any property, whether personal, land, or any
- 447 improvements to the property, subject to taxation and is:
- 448 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
- 449 to the wrong taxpayer by the assessing authority;
- 450 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
- 451 comply with the reporting requirements of this chapter; or
- 452 (iii) undervalued because of errors made by the assessing authority based upon
- 453 incomplete or erroneous information furnished by the taxpayer.
- 454 (b) Property which is undervalued because of the use of a different valuation
- 455 methodology or because of a different application of the same valuation methodology is not
- 456 "escaped property."
- 457 (12) "Fair market value" means the amount at which property would change hands
- 458 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
- 459 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
- 460 market value" shall be determined using the current zoning laws applicable to the property in
- 461 question, except in cases where there is a reasonable probability of a change in the zoning laws

462 affecting that property in the tax year in question and the change would have an appreciable
463 influence upon the value.

464 (13) "Farm machinery and equipment," for purposes of the exemption provided under
465 Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed
466 handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage
467 tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or
468 equipment used primarily for agricultural purposes; but does not include vehicles required to be
469 registered with the Motor Vehicle Division or vehicles or other equipment used for business
470 purposes other than farming.

471 (14) "Geothermal fluid" means water in any form at temperatures greater than 120
472 degrees centigrade naturally present in a geothermal system.

473 (15) "Geothermal resource" means:

474 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;
475 and

476 (b) the energy, in whatever form, including pressure, present in, resulting from, created
477 by, or which may be extracted from that natural heat, directly or through a material medium.

478 (16) (a) For purposes of Section 59-2-103:

479 (i) "household" means the association of persons who live in the same dwelling,
480 sharing its furnishings, facilities, accommodations, and expenses; and

481 (ii) "household" includes married individuals, who are not legally separated, that have
482 established domiciles at separate locations within the state.

483 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
484 commission may make rules defining the term "domicile."

485 (17) (a) Except as provided in Subsection (17)(c), "improvement" means a building,
486 structure, fixture, fence, or other item that is permanently attached to land, regardless of
487 whether the title has been acquired to the land, if:

488 (i) (A) attachment to land is essential to the operation or use of the item; and

489 (B) the manner of attachment to land suggests that the item will remain attached to the
490 land in the same place over the useful life of the item; or

491 (ii) removal of the item would:

492 (A) cause substantial damage to the item; or

493 (B) require substantial alteration or repair of a structure to which the item is attached.

494 (b) "Improvement" includes:

495 (i) an accessory to an item described in Subsection (17)(a) if the accessory is:

496 (A) essential to the operation of the item described in Subsection (17)(a); and

497 (B) installed solely to serve the operation of the item described in Subsection (17)(a);

498 and

499 (ii) an item described in Subsection (17)(a) that:

500 (A) is temporarily detached from the land for repairs; and

501 (B) remains located on the land.

502 (c) Notwithstanding Subsections (17)(a) and (b), "improvement" does not include:

503 (i) an item considered to be personal property pursuant to rules made in accordance

504 with Section 59-2-107;

505 (ii) a moveable item that is attached to land:

506 (A) for stability only; or

507 (B) for an obvious temporary purpose;

508 (iii) (A) manufacturing equipment and machinery; or

509 (B) essential accessories to manufacturing equipment and machinery; or

510 (iv) an item attached to the land in a manner that facilitates removal without substantial

511 damage to:

512 (A) the land; or

513 (B) the item; or

514 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that

515 transportable factory-built housing unit is considered to be personal property under Section

516 59-2-1503.

517 (18) "Intangible property" means:

518 (a) property that is capable of private ownership separate from tangible property,

519 including:

520 (i) moneys;

521 (ii) credits;

522 (iii) bonds;

523 (iv) stocks;

- 524 (v) representative property;
- 525 (vi) franchises;
- 526 (vii) licenses;
- 527 (viii) trade names;
- 528 (ix) copyrights; and
- 529 (x) patents; or
- 530 (b) a low-income housing tax credit.
- 531 (19) "Low-income housing tax credit" means:
- 532 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
- 533 or
- 534 (b) a low-income housing tax credit under:
- 535 (i) Section 59-7-607; or
- 536 (ii) Section [~~59-10-129~~] 59-10-1010.
- 537 (20) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 538 (21) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 539 valuable mineral.
- 540 (22) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 541 otherwise removing a mineral from a mine.
- 542 (23) (a) "Mobile flight equipment" means tangible personal property that is:
- 543 (i) owned or operated by an:
- 544 (A) air charter service;
- 545 (B) air contract service; or
- 546 (C) airline; and
- 547 (ii) (A) capable of flight;
- 548 (B) attached to an aircraft that is capable of flight; or
- 549 (C) contained in an aircraft that is capable of flight if the tangible personal property is
- 550 intended to be used:
- 551 (I) during multiple flights;
- 552 (II) during a takeoff, flight, or landing; and
- 553 (III) as a service provided by an air charter service, air contract service, or airline.
- 554 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare

555 engine that is rotated:

556 (A) at regular intervals; and

557 (B) with an engine that is attached to the aircraft.

558 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
559 the commission may make rules defining the term "regular intervals."

560 (24) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
561 sand, rock, gravel, and all carboniferous materials.

562 (25) "Personal property" includes:

563 (a) every class of property as defined in Subsection (26) which is the subject of
564 ownership and not included within the meaning of the terms "real estate" and "improvements";

565 (b) gas and water mains and pipes laid in roads, streets, or alleys;

566 (c) bridges and ferries;

567 (d) livestock which, for the purposes of the exemption provided under Section
568 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

569 (e) outdoor advertising structures as defined in Section 72-7-502.

570 (26) (a) "Property" means property that is subject to assessment and taxation according
571 to its value.

572 (b) "Property" does not include intangible property as defined in this section.

573 (27) "Public utility," for purposes of this chapter, means the operating property of a
574 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
575 company, electrical corporation, telephone corporation, sewerage corporation, or heat
576 corporation where the company performs the service for, or delivers the commodity to, the
577 public generally or companies serving the public generally, or in the case of a gas corporation
578 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
579 consumers within the state for domestic, commercial, or industrial use. Public utility also
580 means the operating property of any entity or person defined under Section 54-2-1 except water
581 corporations.

582 (28) "Real estate" or "real property" includes:

583 (a) the possession of, claim to, ownership of, or right to the possession of land;

584 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
585 individuals or corporations growing or being on the lands of this state or the United States, and

586 all rights and privileges appertaining to these; and

587 (c) improvements.

588 (29) "Residential property," for the purposes of the reductions and adjustments under
589 this chapter, means any property used for residential purposes as a primary residence. It does
590 not include property used for transient residential use or condominiums used in rental pools.

591 (30) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number of
592 miles calculated by the commission that is:

593 (a) measured in a straight line by the commission; and

594 (b) equal to the distance between a geographical location that begins or ends:

595 (i) at a boundary of the state; and

596 (ii) where an aircraft:

597 (A) takes off; or

598 (B) lands.

599 (31) (a) "State-assessed commercial vehicle" means:

600 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate
601 to transport passengers, freight, merchandise, or other property for hire; or

602 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and
603 transports the vehicle owner's goods or property in furtherance of the owner's commercial
604 enterprise.

605 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which
606 are specified in Subsection (8)(c) as county-assessed commercial vehicles.

607 (32) "Taxable value" means fair market value less any applicable reduction allowed for
608 residential property under Section 59-2-103.

609 (33) "Tax area" means a geographic area created by the overlapping boundaries of one
610 or more taxing entities.

611 (34) "Taxing entity" means any county, city, town, school district, special taxing
612 district, or any other political subdivision of the state with the authority to levy a tax on
613 property.

614 (35) "Tax roll" means a permanent record of the taxes charged on property, as extended
615 on the assessment roll and may be maintained on the same record or records as the assessment
616 roll or may be maintained on a separate record properly indexed to the assessment roll. It

617 includes tax books, tax lists, and other similar materials.

618 Section 6. Section **59-6-101** is amended to read:

619 **59-6-101. Definitions.**

620 As used in this chapter:

621 (1) "Claimant" is as defined in Section 59-10-1102.

622 (2) "Estate" is as defined in Section 59-10-1102.

623 [(1)] (3) "Minerals" means either metalliferous minerals as defined in Section
624 59-2-102, nonmetalliferous minerals as defined in Section 59-2-102, or both.

625 [(2)] (4) "Producer" means any person who produces or extracts minerals from deposits
626 in this state or who is the first purchaser of minerals produced or extracted from deposits in this
627 state.

628 (5) "Refundable tax credit" is as defined in Section 59-10-1102.

629 (6) "Trust" is as defined in Section 59-10-1102.

630 Section 7. Section **59-6-102** is amended to read:

631 **59-6-102. Producer's obligation to deduct and withhold payments -- Amount --**
632 **Exempt payments -- Credit against tax.**

633 (1) Except as provided in Subsection (2), each producer shall deduct and withhold
634 from each payment being made to any person in respect to production of minerals in this state,
635 but not including that to which the producer is entitled, an amount equal to 5% of the amount
636 which would have otherwise been payable to the person entitled to the payment.

637 (2) Notwithstanding Subsection (1), the obligation to deduct and withhold from
638 payments as provided in Subsection (1) does not apply to those payments which are payable to:

639 (a) the United States, this state, or an agency or political subdivision of the United
640 States or this state;

641 (b) an organization that is exempt from the taxes imposed by Chapter 7, Corporate
642 Franchise and Income Taxes, in accordance with Subsection 59-7-102(1)(a); or

643 (c) an Indian or Indian tribe if the amounts accruing are subject to the supervision of
644 the United States or an agency of the United States.

645 (3) [(a)] A [~~person who~~] claimant, estate, or trust that files a tax return with the state in
646 accordance with the following is entitled to a refundable tax credit against the tax reflected on
647 the return for the amount withheld by the producer under Subsection (1):

648 [(i)] (a) Chapter 7, Corporate Franchise and Income Taxes;
649 [(ii)] (b) Chapter 8, Gross Receipts Tax on Certain Corporations not Required to Pay
650 Corporate Franchise or Income Tax Act;
651 [(iii)] (c) Chapter 8a, Gross Receipts Tax on Electrical Corporations Act; or
652 [(iv)] (d) Chapter 10, Individual Income Tax Act.
653 ~~[(b) If the amount withheld under Subsection (1) is greater than the tax due on the~~
654 ~~return, the person making the return is entitled to a refund in the amount of the overpayment.]~~

655 Section 8. Section **59-7-607** is amended to read:

656 **59-7-607. Utah low-income housing tax credit.**

657 (1) As used in this section:

658 (a) "Allocation certificate" means:

659 (i) the certificate prescribed by the commission and issued by the Utah Housing
660 Corporation to each taxpayer that specifies the percentage of the annual federal low-income
661 housing tax credit that each taxpayer may take as an annual credit against state income tax; or

662 (ii) a copy of the allocation certificate that the housing sponsor provides to the
663 taxpayer.

664 (b) "Building" means a qualified low-income building as defined in Section 42(c),
665 Internal Revenue Code.

666 (c) "Federal low-income housing tax credit" means the tax credit under Section 42,
667 Internal Revenue Code.

668 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership
669 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability
670 company in the case of a limited liability company.

671 (e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah
672 Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

673 (f) "Special low-income housing tax credit certificate" means a certificate:

674 (i) prescribed by the commission;

675 (ii) that a housing sponsor issues to a taxpayer for a taxable year; and

676 (iii) that specifies the amount of tax credit a taxpayer may claim under this section if
677 the taxpayer meets the requirements of this section.

678 (g) "Taxpayer" means a person that is allowed a tax credit in accordance with this

679 section which is the corporation in the case of a C corporation, the partners in the case of a
680 partnership, the shareholders in the case of an S corporation, and the members in the case of a
681 limited liability company.

682 (2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a
683 nonrefundable tax credit against taxes otherwise due under this chapter or Chapter 8, Gross
684 Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax
685 Act, for taxpayers issued an allocation certificate.

686 (b) The tax credit shall be in an amount equal to the greater of the amount of:

687 (i) federal low-income housing tax credit to which the taxpayer is allowed during that
688 year multiplied by the percentage specified in an allocation certificate issued by the Utah
689 Housing Corporation; or

690 (ii) tax credit specified in the special low-income housing tax credit certificate that the
691 housing sponsor issues to the taxpayer as provided in Subsection (2)(c).

692 (c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

693 (i) the total amount of low-income housing tax credit under this section that:

694 (A) a housing sponsor is allowed for a building; and

695 (B) all of the taxpayers may claim with respect to the building if the taxpayers meet the
696 requirements of this section; and

697 (ii) the percentage of tax credit a taxpayer may claim:

698 (A) under this section if the taxpayer meets the requirements of this section; and

699 (B) as provided in the agreement between the taxpayer and the housing sponsor.

700 (d) (i) For the calendar year beginning on January 1, 1995, through the calendar year
701 beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing
702 Corporation may allocate for the credit period described in Section 42(f), Internal Revenue
703 Code, pursuant to this section and Section ~~[59-10-129]~~ 59-10-1010 is an amount equal to the
704 product of:

705 (A) 12.5 cents; and

706 (B) the population of Utah.

707 (ii) For purposes of this section, the population of Utah shall be determined in
708 accordance with Section 146(j), Internal Revenue Code.

709 (3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and

710 procedures for allocating the tax credit under this section and Section [~~59-10-129~~] 59-10-1010
711 and incorporate the criteria and procedures into the Utah Housing Corporation's qualified
712 allocation plan.

713 (b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)
714 based on:

715 (i) the number of affordable housing units to be created in Utah for low and moderate
716 income persons in the residential housing development of which the building is a part;

717 (ii) the level of area median income being served by the development;

718 (iii) the need for the tax credit for the economic feasibility of the development; and

719 (iv) the extended period for which the development commits to remain as affordable
720 housing.

721 (4) (a) The following may apply to the Utah Housing Corporation for a tax credit under
722 this section:

723 (i) any housing sponsor that has received an allocation of the federal low-income
724 housing tax credit; or

725 (ii) any applicant for an allocation of the federal low-income housing tax credit.

726 (b) The Utah Housing Corporation may not require fees for applications of the tax
727 credit under this section in addition to those fees required for applications for the federal
728 low-income housing tax credit.

729 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to
730 allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the
731 Utah Housing Corporation.

732 (b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors
733 by issuing an allocation certificate to qualifying housing sponsors.

734 (ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed
735 percentage of the federal low-income housing tax credit as determined by the Utah Housing
736 Corporation.

737 (c) The percentage specified in an allocation certificate may not exceed 100% of the
738 federal low-income housing tax credit.

739 (6) A housing sponsor shall provide a copy of the allocation certificate to each taxpayer
740 that is issued a special low-income housing tax credit certificate.

- 741 (7) (a) A housing sponsor shall provide to the commission a list of:
- 742 (i) the taxpayers issued a special low-income housing tax credit certificate; and
- 743 (ii) for each taxpayer described in Subsection (7)(a)(i), the amount of tax credit listed
- 744 on the special low-income housing tax credit certificate.
- 745 (b) A housing sponsor shall provide the list required by Subsection (7)(a):
- 746 (i) to the commission;
- 747 (ii) on a form provided by the commission; and
- 748 (iii) with the housing sponsor's tax return for each taxable year for which the housing
- 749 sponsor issues a special low-income housing tax credit certificate described in this Subsection
- 750 (7).
- 751 (8) (a) All elections made by the taxpayer pursuant to Section 42, Internal Revenue
- 752 Code, shall apply to this section.
- 753 (b) (i) If a taxpayer is required to recapture a portion of any federal low-income
- 754 housing tax credit, the taxpayer shall also be required to recapture a portion of any state tax
- 755 credits authorized by this section.
- 756 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
- 757 that equals the proportion the federal recapture amount bears to the original federal low-income
- 758 housing tax credit amount subject to recapture.
- 759 (9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be
- 760 reallocated within the same time period as provided in Section 42, Internal Revenue Code.
- 761 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may
- 762 be carried over for allocation in the subsequent year.
- 763 (10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the
- 764 tax credit exceeds the tax, may be carried back three years or may be carried forward five years
- 765 as a credit against the tax.
- 766 (b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:
- 767 (i) before the application of the tax credits earned in the current year; and
- 768 (ii) on a first-earned first-used basis.
- 769 (11) Any tax credit taken in this section may be subject to an annual audit by the
- 770 commission.
- 771 (12) The Utah Housing Corporation shall provide an annual report to the Revenue and

772 Taxation Interim Committee which shall include at least:

773 (a) the purpose and effectiveness of the tax credits; and

774 (b) the benefits of the tax credits to the state.

775 (13) The commission may, in consultation with the Utah Housing Corporation,

776 promulgate rules to implement this section.

777 Section 9. Section **59-7-614** is amended to read:

778 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**

779 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**

780 **authority -- Reimbursement of Uniform School Fund.**

781 (1) As used in this section:

782 (a) "Active solar system":

783 (i) means a system of equipment capable of collecting and converting incident solar
784 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
785 by a separate apparatus to storage or to the point of use; and

786 (ii) includes water heating, space heating or cooling, and electrical or mechanical
787 energy generation.

788 (b) "Biomass system" means any system of apparatus and equipment capable of
789 converting organic plant, wood, or waste products into electrical and thermal energy and
790 transferring these forms of energy by a separate apparatus to the point of use or storage.

791 (c) "Business entity" means any sole proprietorship, estate, trust, partnership,
792 association, corporation, cooperative, or other entity under which business is conducted or
793 transacted.

794 (d) "Commercial energy system" means any active solar, passive solar, wind,
795 hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial
796 enterprise.

797 (e) "Commercial enterprise" means a business entity whose purpose is to produce
798 electrical, mechanical, or thermal energy for sale from a commercial energy system.

799 (f) (i) "Commercial unit" means any building or structure which a business entity uses
800 to transact its business except as provided in Subsection (1)(f)(ii); and

801 (ii) (A) in the case of an active solar system used for agricultural water pumping or a
802 wind system, each individual energy generating device shall be a commercial unit; and

803 (B) if an energy system is the building or structure which a business entity uses to
804 transact its business, a commercial unit is the complete energy system itself.

805 (g) "Hydroenergy system" means a system of apparatus and equipment capable of
806 intercepting and converting kinetic water energy into electrical or mechanical energy and
807 transferring this form of energy by separate apparatus to the point of use or storage.

808 (h) "Individual taxpayer" means any person who is a taxpayer as defined in Section
809 59-10-103 and an individual as defined in Section 59-10-103.

810 (i) "Passive solar system":

811 (i) means a direct thermal system which utilizes the structure of a building and its
812 operable components to provide for collection, storage, and distribution of heating or cooling
813 during the appropriate times of the year by utilizing the climate resources available at the site;
814 and

815 (ii) includes those portions and components of a building that are expressly designed
816 and required for the collection, storage, and distribution of solar energy.

817 (j) "Residential energy system" means any active solar, passive solar, wind, or
818 hydroenergy system used to supply energy to or for any residential unit.

819 (k) "Residential unit" means any house, condominium, apartment, or similar dwelling
820 unit which serves as a dwelling for a person, group of persons, or a family but does not include
821 property subject to a fee under:

822 (i) Section 59-2-404;

823 (ii) Section 59-2-405;

824 (iii) Section 59-2-405.1;

825 (iv) Section 59-2-405.2; or

826 (v) Section 59-2-405.3.

827 (l) "Utah Geological Survey" means the Utah Geological Survey established in Section
828 63-73-5.

829 (m) "Wind system" means a system of apparatus and equipment capable of intercepting
830 and converting wind energy into mechanical or electrical energy and transferring these forms of
831 energy by a separate apparatus to the point of use or storage.

832 (2) (a) (i) For taxable years beginning on or after January 1, 2001, but beginning on or
833 before December 31, 2006, a business entity that purchases and completes or participates in the

834 financing of a residential energy system to supply all or part of the energy required for a
835 residential unit owned or used by the business entity and situated in Utah is entitled to a tax
836 credit as provided in this Subsection (2)(a).

837 (ii) (A) A business entity is entitled to a tax credit equal to 25% of the costs of a
838 residential energy system installed with respect to each residential unit it owns or uses,
839 including installation costs, against any tax due under this chapter for the taxable year in which
840 the energy system is completed and placed in service.

841 (B) The total amount of the credit under this Subsection (2)(a) may not exceed \$2,000
842 per residential unit.

843 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
844 completed and placed in service on or after January 1, 2001, but on or before December 31,
845 2006.

846 (iii) If a business entity sells a residential unit to an individual taxpayer prior to making
847 a claim for the tax credit under this Subsection (2)(a), the business entity may:

848 (A) assign its right to this tax credit to the individual taxpayer; and

849 (B) if the business entity assigns its right to the tax credit to an individual taxpayer
850 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the
851 individual taxpayer had completed or participated in the costs of the residential energy system
852 under Section ~~[59-10-134]~~ 59-10-1014.

853 (b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or
854 before December 31, 2006, a business entity that purchases or participates in the financing of a
855 commercial energy system is entitled to a tax credit as provided in this Subsection (2)(b) if:

856 (A) the commercial energy system supplies all or part of the energy required by
857 commercial units owned or used by the business entity; or

858 (B) the business entity sells all or part of the energy produced by the commercial
859 energy system as a commercial enterprise.

860 (ii) (A) A business entity is entitled to a tax credit equal to 10% of the costs of any
861 commercial energy system installed, including installation costs, against any tax due under this
862 chapter for the taxable year in which the commercial energy system is completed and placed in
863 service.

864 (B) The total amount of the credit under this Subsection (2)(b) may not exceed \$50,000

865 per commercial unit.

866 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy
867 system completed and placed in service on or after January 1, 2001, but on or before December
868 31, 2006.

869 (iii) A business entity that leases a commercial energy system installed on a
870 commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can
871 confirm that the lessor irrevocably elects not to claim the credit.

872 (iv) Only the principal recovery portion of the lease payments, which is the cost
873 incurred by a business entity in acquiring a commercial energy system, excluding interest
874 charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

875 (v) A business entity that leases a commercial energy system is eligible to use the tax
876 credit under this Subsection (2)(b) for a period no greater than seven years from the initiation
877 of the lease.

878 (c) (i) A tax credit under this section may be claimed for the taxable year in which the
879 energy system is completed and placed in service.

880 (ii) Additional energy systems or parts of energy systems may be claimed for
881 subsequent years.

882 (iii) If the amount of a tax credit under this section exceeds a business entity's tax
883 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
884 may be carried over for a period which does not exceed the next four taxable years.

885 (3) (a) The tax credits provided for under Subsection (2) are in addition to any tax
886 credits provided under the laws or rules and regulations of the United States.

887 (b) (i) The Utah Geological Survey may set standards for residential and commercial
888 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of
889 the systems to ensure that the systems eligible for the tax credit use the state's renewable and
890 nonrenewable energy resources in an appropriate and economic manner.

891 (ii) A tax credit may not be taken under Subsection (2) until the Utah Geological
892 Survey has certified that the energy system has been completely installed and is a viable system
893 for saving or production of energy from renewable resources.

894 (c) The Utah Geological Survey and the commission are authorized to promulgate rules
895 in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which are

896 necessary to implement this section.

897 (d) The Uniform School Fund shall be reimbursed by transfers from the General Fund
898 for any credits taken under this section.

899 Section 10. Section **59-7-703** is amended to read:

900 **59-7-703. Payment or withholding of tax on behalf of nonresident shareholders --**
901 **Rate.**

902 (1) As used in this section, "return" means:

903 (a) if a nonresident shareholder is required to file a return under this chapter, a return
904 filed under this chapter; or

905 (b) if a nonresident shareholder is required to file a return under Chapter 10, Individual
906 Income Tax Act, a return filed under Chapter 10, Individual Income Tax Act.

907 (2) (a) Except as provided in Subsection (4), an S corporation shall pay or withhold a
908 tax on behalf of any nonresident shareholder.

909 (b) The amount paid or withheld by an S corporation under Subsection (2)(a) shall be
910 determined by:

911 (i) calculating the items of income or loss from federal form 1120S, Schedule K;

912 (ii) applying the apportionment formula to determine the amount apportioned to Utah;

913 (iii) reducing the amount apportioned to Utah by the percentage of ownership

914 attributable to resident shareholders; and

915 (iv) applying the rate to the remaining balance.

916 (3) (a) For a nonresident shareholder who is required to file a return under this chapter:

917 (i) the nonresident shareholder may claim a credit on the nonresident shareholder's
918 return for the amount of tax paid or withheld by the S corporation on behalf of the nonresident
919 shareholder;

920 (ii) if the nonresident shareholder has no other Utah source income, the nonresident
921 shareholder may elect:

922 (A) not to claim the credit provided under Subsection (3)(a)(i); and

923 (B) not to file a return for the taxable year; and

924 (iii) if the nonresident shareholder may claim credits other than the credit described in
925 Subsection (3)(a)(i), the nonresident shareholder shall file a return to claim those credits.

926 (b) If a nonresident shareholder is required to file a return under Chapter 10, Individual

927 Income Tax Act, the nonresident shareholder is subject to Section [~~59-10-108.2~~] 59-10-1103.

928 (4) Notwithstanding Subsection (2), the obligation to pay or withhold a tax under
929 Subsection (2) does not apply to an organization that is exempt under Subsection
930 59-7-102(1)(a) from the taxes imposed by this chapter.

931 (5) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
932 the commission shall by rule determine the rate at which an S corporation shall withhold for
933 nonresident shareholders.

934 (b) The rate described in Subsection (5)(a) shall be consistent with the composite tax
935 rate paid by partnerships.

936 (6) (a) If an S corporation fails to pay or withhold a tax as provided in this section, and
937 thereafter the income subject to payment or withholding is reported and the resulting tax is paid
938 by a nonresident shareholder, any tax required to be paid or withheld may not be collected from
939 the S corporation.

940 (b) A nonresident shareholder's payment under Subsection (6)(a) does not relieve the S
941 corporation from liability for penalties or interest associated with failure to pay or withhold a
942 tax as provided in this section.

943 (7) Penalties, refunds, assessments, and required records for S corporations shall be
944 governed by:

945 (a) this chapter if a nonresident shareholder is subject to this chapter; or

946 (b) Chapter 10, Individual Income Tax Act, if a nonresident shareholder is subject to
947 Chapter 10, Individual Income Tax Act.

948 (8) (a) An S corporation shall furnish each nonresident shareholder a statement
949 showing:

950 (i) the amount of the nonresident shareholder's share of the corporate earnings from
951 Utah sources; and

952 (ii) the amount of the withholding from the nonresident shareholder's share of the
953 corporate earnings from Utah sources.

954 (b) An S corporation shall pay the commission the amount withheld under this section:

955 (i) by the due date of the corporation's return, not including extensions; and

956 (ii) on forms furnished by the commission.

957 Section 11. Section **59-10-103** is amended to read:

958 **59-10-103. Definitions.**

959 (1) As used in this chapter:

960 (a) "Adoption expenses" means:

961 (i) any actual medical and hospital expenses of the mother of the adopted child which

962 are incident to the child's birth;

963 (ii) any welfare agency fees or costs;

964 (iii) any child placement service fees or costs;

965 (iv) any legal fees or costs; or

966 (v) any other fees or costs relating to an adoption.

967 (b) "Adult with a disability" means an individual who:

968 (i) is 18 years of age or older;

969 (ii) is eligible for services under Title 62A, Chapter 5, Services [to] for People with

970 Disabilities; and

971 (iii) is not enrolled in:

972 (A) an education program for students with disabilities that is authorized under Section

973 53A-15-301; or

974 (B) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind.

975 (c) (i) For purposes of Subsection 59-10-114(2)[(m)] (l), "capital gain transaction"

976 means a transaction that results in a:

977 (A) short-term capital gain; or

978 (B) long-term capital gain.

979 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

980 the commission may by rule define the term "transaction."

981 (d) "Commercial domicile" means the principal place from which the trade or business

982 of a Utah small business corporation is directed or managed.

983 (e) "Corporation" includes:

984 (i) associations;

985 (ii) joint stock companies; and

986 (iii) insurance companies.

987 (f) "Dependent child with a disability" means an individual 21 years of age or younger

988 who:

- 989 (i) (A) is diagnosed by a school district representative under rules adopted by the State
990 Board of Education as having a disability classified as:
- 991 (I) autism;
 - 992 (II) deafness;
 - 993 (III) preschool developmental delay;
 - 994 (IV) dual sensory impairment;
 - 995 (V) hearing impairment;
 - 996 (VI) intellectual disability;
 - 997 (VII) multidisability;
 - 998 (VIII) orthopedic impairment;
 - 999 (IX) other health impairment;
 - 1000 (X) traumatic brain injury; or
 - 1001 (XI) visual impairment;
- 1002 (B) is not receiving residential services from:
- 1003 (I) the Division of Services for People with Disabilities created under Section
1004 62A-5-102; or
 - 1005 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
- 1006 and
- 1007 (C) is enrolled in:
 - 1008 (I) an education program for students with disabilities that is authorized under Section
1009 53A-15-301; or
 - 1010 (II) a school established under Title 53A, Chapter 25, Schools for the Deaf and Blind;
- 1011 or
- 1012 (ii) is identified under guidelines of the Department of Health as qualified for:
 - 1013 (A) Early Intervention; or
 - 1014 (B) Infant Development Services.
- 1015 (g) "Employee" is as defined in Section 59-10-401.
1016 (h) "Employer" is as defined in Section 59-10-401.
- 1017 (i) "Fiduciary" means:
 - 1018 (i) a guardian;
 - 1019 (ii) a trustee;

- 1020 (iii) an executor;
- 1021 (iv) an administrator;
- 1022 (v) a receiver;
- 1023 (vi) a conservator; or
- 1024 (vii) any person acting in any fiduciary capacity for any individual.
- 1025 (j) "Homesteaded land diminished from the Uintah and Ouray Reservation" means the
- 1026 homesteaded land that was held to have been diminished from the Uintah and Ouray
- 1027 Reservation in Hagen v. Utah, 510 U.S. 399 (1994).
- 1028 (k) "Individual" means a natural person and includes aliens and minors.
- 1029 (l) "Irrevocable trust" means a trust in which the settlor may not revoke or terminate all
- 1030 or part of the trust without the consent of a person who has a substantial beneficial interest in
- 1031 the trust and the interest would be adversely affected by the exercise of the settlor's power to
- 1032 revoke or terminate all or part of the trust.
- 1033 (m) For purposes of Subsection 59-10-114(2)~~(m)~~ (l), "long-term capital gain" is as
- 1034 defined in Section 1222, Internal Revenue Code.
- 1035 (n) "Nonresident individual" means an individual who is not a resident of this state.
- 1036 (o) "Nonresident trust" or "nonresident estate" means a trust or estate which is not a
- 1037 resident estate or trust.
- 1038 (p) (i) "Partnership" includes a syndicate, group, pool, joint venture, or other
- 1039 unincorporated organization:
- 1040 (A) through or by means of which any business, financial operation, or venture is
- 1041 carried on; and
- 1042 (B) which is not, within the meaning of this chapter:
- 1043 (I) a trust;
- 1044 (II) an estate; or
- 1045 (III) a corporation.
- 1046 (ii) "Partnership" does not include any organization not included under the definition of
- 1047 "partnership" in Section 761, Internal Revenue Code.
- 1048 (iii) "Partner" includes a member in a syndicate, group, pool, joint venture, or
- 1049 organization described in Subsection (1)(p)(i).
- 1050 (q) "Qualifying military service member" means a member of:

- 1051 (i) The Utah Army National Guard;
- 1052 (ii) The Utah Air National Guard; or
- 1053 (iii) the following if the member is assigned to a unit that is located in the state:
- 1054 (A) The Army Reserve;
- 1055 (B) The Naval Reserve;
- 1056 (C) The Air Force Reserve;
- 1057 (D) The Marine Corps Reserve; or
- 1058 (E) The Coast Guard Reserve.
- 1059 (r) "Qualifying stock" means stock that is:
- 1060 (i) (A) common; or
- 1061 (B) preferred;
- 1062 (ii) as defined by the commission by rule, originally issued to:
- 1063 (A) a resident or nonresident individual; or
- 1064 (B) a partnership if the resident or nonresident individual making a subtraction from
- 1065 federal taxable income in accordance with Subsection 59-10-114(2)[~~(m)~~] (l):
- 1066 (I) was a partner when the stock was issued; and
- 1067 (II) remains a partner until the last day of the taxable year for which the resident or
- 1068 nonresident individual makes the subtraction from federal taxable income in accordance with
- 1069 Subsection 59-10-114(2)[~~(m)~~] (l); and
- 1070 (iii) issued:
- 1071 (A) by a Utah small business corporation;
- 1072 (B) on or after January 1, 2003; and
- 1073 (C) for:
- 1074 (I) money; or
- 1075 (II) other property, except for stock or securities.
- 1076 (s) (i) "Resident individual" means:
- 1077 (A) an individual who is domiciled in this state for any period of time during the
- 1078 taxable year, but only for the duration of the period during which the individual is domiciled in
- 1079 this state; or
- 1080 (B) an individual who is not domiciled in this state but:
- 1081 (I) maintains a permanent place of abode in this state; and

- 1082 (II) spends in the aggregate 183 or more days of the taxable year in this state.
- 1083 (ii) For purposes of Subsection (1)(s)(i)(B), a fraction of a calendar day shall be
1084 counted as a whole day.
- 1085 (t) "Resident estate" or "resident trust" is as defined in Section 75-7-103.
- 1086 (u) For purposes of Subsection 59-10-114(2)~~[(m)]~~ (l), "short-term capital gain" is as
1087 defined in Section 1222, Internal Revenue Code.
- 1088 (v) "Taxable income" and "state taxable income" are defined as provided in Sections
1089 59-10-111, 59-10-112, ~~[59-10-116;]~~ 59-10-201.1, and 59-10-204.
- 1090 (w) "Taxpayer" means any individual, estate, or trust or beneficiary of an estate or
1091 trust, whose income is subject in whole or part to the tax imposed by this chapter.
- 1092 (x) "Uintah and Ouray Reservation" means the lands recognized as being included
1093 within the Uintah and Ouray Reservation in:
- 1094 (i) Hagen v. Utah, 510 U.S. 399 (1994); and
1095 (ii) Ute Indian Tribe v. Utah, 114 F.3d 1513 (10th Cir. 1997).
- 1096 (y) (i) "Utah small business corporation" means a corporation that:
1097 (A) is a small business corporation as defined in Section 1244(c)(3), Internal Revenue
1098 Code;
1099 (B) except as provided in Subsection (1)(y)(ii), meets the requirements of Section
1100 1244(c)(1)(C), Internal Revenue Code; and
1101 (C) has its commercial domicile in this state.
- 1102 (ii) Notwithstanding Subsection (1)(y)(i)(B), the time period described in Section
1103 1244(c)(1)(C) and Section 1244(c)(2), Internal Revenue Code, for determining the source of a
1104 corporation's aggregate gross receipts shall end on the last day of the taxable year for which the
1105 resident or nonresident individual makes a subtraction from federal taxable income in
1106 accordance with Subsection 59-10-114(2)~~[(m)]~~ (l).
- 1107 (z) "Ute tribal member" means a person who is enrolled as a member of the Ute Indian
1108 Tribe of the Uintah and Ouray Reservation.
- 1109 (aa) "Ute tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.
- 1110 (bb) "Wages" is as defined in Section 59-10-401.
- 1111 (2) (a) Any term used in this chapter has the same meaning as when used in
1112 comparable context in the laws of the United States relating to federal income taxes unless a

1113 different meaning is clearly required.

1114 (b) Any reference to the Internal Revenue Code or to the laws of the United States shall
1115 mean the Internal Revenue Code or other provisions of the laws of the United States relating to
1116 federal income taxes that are in effect for the taxable year.

1117 (c) Any reference to a specific section of the Internal Revenue Code or other provision
1118 of the laws of the United States relating to federal income taxes shall include any
1119 corresponding or comparable provisions of the Internal Revenue Code as hereafter amended,
1120 redesignated, or reenacted.

1121 Section 12. Section **59-10-112** is amended to read:

1122 **59-10-112. State taxable income of resident individual.**

1123 "State taxable income" in the case of a resident individual means ~~[his]~~ the resident
1124 individual's federal taxable income ~~[], as defined by Section 59-10-111[]], with the~~
1125 ~~[modifications,] additions and subtractions~~[, and adjustments provided in]~~ required by Section~~
1126 ~~59-10-114. [The state taxable income of a resident individual who is the beneficiary of an~~
1127 ~~estate or trust shall be modified by the adjustments provided in Section 59-10-209.]~~

1128 Section 13. Section **59-10-114** is amended to read:

1129 **59-10-114. Additions to and subtractions from federal taxable income of an**
1130 **individual.**

1131 (1) There shall be added to federal taxable income of a resident or nonresident
1132 individual:

1133 (a) the amount of any income tax imposed by this or any predecessor Utah individual
1134 income tax law and the amount of any income tax imposed by the laws of another state, the
1135 District of Columbia, or a possession of the United States, to the extent deducted from federal
1136 adjusted gross income, as defined by Section 62, Internal Revenue Code, in determining federal
1137 taxable income;

1138 (b) a lump sum distribution that the taxpayer does not include in adjusted gross income
1139 on the taxpayer's federal individual income tax return for the taxable year;

1140 (c) for taxable years beginning on or after January 1, 2002, the amount of a child's
1141 income calculated under Subsection (5) that:

1142 (i) a parent elects to report on the parent's federal individual income tax return for the
1143 taxable year; and

- 1144 (ii) the parent does not include in adjusted gross income on the parent's federal
1145 individual income tax return for the taxable year;
- 1146 (d) 25% of the personal exemptions, as defined and calculated in the Internal Revenue
1147 Code;
- 1148 (e) a withdrawal from a medical care savings account and any penalty imposed in the
1149 taxable year if:
- 1150 (i) the taxpayer did not deduct or include the amounts on the taxpayer's federal
1151 individual income tax return pursuant to Section 220, Internal Revenue Code; and
- 1152 (ii) the withdrawal is subject to Subsections 31A-32a-105(1) and (2);
- 1153 (f) the amount disbursed to an account owner under Title 53B, Chapter 8a, Higher
1154 Education Savings Incentive Program, in the year in which the amount is disbursed;
- 1155 (g) except as provided in Subsection (6), for taxable years beginning on or after
1156 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after
1157 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by
1158 one or more of the following entities:
- 1159 (i) a state other than this state;
- 1160 (ii) the District of Columbia;
- 1161 (iii) a political subdivision of a state other than this state; or
- 1162 (iv) an agency or instrumentality of an entity described in Subsections (1)(g)(i) through
1163 (iii);
- 1164 (h) subject to Subsection (2)(n), any distribution received by a resident beneficiary of a
1165 resident trust of income that was taxed at the trust level for federal tax purposes, but was
1166 subtracted from state taxable income of the trust pursuant to Subsection 59-10-202(2)(c); [~~and~~]
- 1167 (i) any distribution received by a resident beneficiary of a nonresident trust of income
1168 that was taxed at the trust level for federal tax purposes, but was not taxed at the trust level by
1169 any state[-]; and
- 1170 (j) any adoption expense:
- 1171 (i) for which a resident or nonresident individual receives reimbursement from another
1172 person; and
- 1173 (ii) to the extent to which the resident or nonresident individual deducts that adoption
1174 expense from federal taxable income on a state or federal individual income tax return.

1175 (2) There shall be subtracted from federal taxable income of a resident or nonresident
1176 individual:

1177 (a) the interest or ~~[dividends]~~ a dividend on obligations or securities of the United
1178 States and its possessions or of any authority, commission, or instrumentality of the United
1179 States, to the extent ~~[includable]~~ that interest or dividend is included in gross income for
1180 federal income tax purposes for the taxable year but exempt from state income taxes under the
1181 laws of the United States, but the amount subtracted under this Subsection (2)(a) shall be
1182 reduced by any interest on indebtedness incurred or continued to purchase or carry the
1183 obligations or securities described in this Subsection (2)(a), and by any expenses incurred in
1184 the production of interest or dividend income described in this Subsection (2)(a) to the extent
1185 that such expenses, including amortizable bond premiums, are deductible in determining
1186 federal taxable income;

1187 (b) ~~[(i) except as provided in Subsection (2)(b)(ii);]~~ 1/2 of the net amount of any
1188 income tax paid or payable to the United States after all allowable credits, as reported on the
1189 United States individual income tax return of the taxpayer for the same taxable year; ~~[and]~~

1190 ~~[(ii) notwithstanding Subsection (2)(b)(i), for taxable years beginning on or after~~
1191 ~~January 1, 2001, the amount of a credit or an advance refund amount reported on a resident or~~
1192 ~~nonresident individual's United States individual income tax return allowed as a result of the~~
1193 ~~acceleration of the income tax rate bracket benefit for 2001 in accordance with Section 101,~~
1194 ~~Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. No. 107-16, may not be~~
1195 ~~used in calculating the amount described in Subsection (2)(b)(i);]~~

1196 (c) the amount of adoption expenses for one of the following taxable years as elected
1197 by the resident or nonresident individual:

1198 (i) regardless of whether a court issues an order granting the adoption, the taxable year
1199 in which the adoption expenses are:

1200 (A) paid; or

1201 (B) incurred;

1202 (ii) the taxable year in which a court issues an order granting the adoption; or

1203 (iii) any year in which the resident or nonresident individual may claim the federal
1204 adoption expenses credit under Section 23, Internal Revenue Code;

1205 (d) amounts received by taxpayers under age 65 as retirement income which, for

1206 purposes of this section, means pensions and annuities, paid from an annuity contract
1207 purchased by an employer under a plan which meets the requirements of Section 404(a)(2),
1208 Internal Revenue Code, or purchased by an employee under a plan which meets the
1209 requirements of Section 408, Internal Revenue Code, or paid by the United States, a state, or
1210 political subdivision thereof, or the District of Columbia, to the employee involved or the
1211 surviving spouse;

1212 (e) for each taxpayer age 65 or over before the close of the taxable year, a \$7,500
1213 personal retirement exemption;

1214 (f) 75% of the amount of the personal exemption, as defined and calculated in the
1215 Internal Revenue Code, for each dependent child with a disability and adult with a disability
1216 who is claimed as a dependent on a taxpayer's return;

1217 ~~[(g) any amount included in federal taxable income that was received pursuant to any
1218 federal law enacted in 1988 to provide reparation payments, as damages for human suffering,
1219 to United States citizens and resident aliens of Japanese ancestry who were interned during
1220 World War II;]~~

1221 ~~[(h)]~~ (g) subject to the limitations of Subsection (3)(e), amounts a taxpayer pays during
1222 the taxable year for health care insurance, as defined in Title 31A, Chapter 1, General
1223 Provisions:

1224 (i) for:

1225 (A) the taxpayer;

1226 (B) the taxpayer's spouse; and

1227 (C) the taxpayer's dependents; and

1228 (ii) to the extent the taxpayer does not deduct the amounts under Section 125, 162, or
1229 213, Internal Revenue Code, in determining federal taxable income for the taxable year;

1230 ~~[(i)]~~ (h) (i) except as ~~[otherwise]~~ provided in this Subsection (2)~~[(i)]~~(h), the amount of
1231 a contribution made during the taxable year on behalf of the taxpayer to a medical care savings
1232 account and interest earned on a contribution to a medical care savings account established
1233 pursuant to Title 31A, Chapter 32a, Medical Care Savings Account Act, to the extent the
1234 contribution is accepted by the account administrator as provided in the Medical Care Savings
1235 Account Act, and if the taxpayer did not deduct or include amounts on the taxpayer's federal
1236 individual income tax return pursuant to Section 220, Internal Revenue Code; and

1237 (ii) a contribution deductible under this Subsection (2)~~(f)~~(h) may not exceed either of
1238 the following:

1239 (A) the maximum contribution allowed under the Medical Care Savings Account Act
1240 for the tax year multiplied by two for taxpayers who file a joint return, if neither spouse is
1241 covered by health care insurance as defined in Section 31A-1-301 or self-funded plan that
1242 covers the other spouse, and each spouse has a medical care savings account; or

1243 (B) the maximum contribution allowed under the Medical Care Savings Account Act
1244 for the tax year for taxpayers:

1245 (I) who do not file a joint return; or

1246 (II) who file a joint return, but do not qualify under Subsection (2)~~(f)~~(h)(ii)(A);

1247 ~~(j)~~ (i) the amount included in federal taxable income that was derived from money
1248 paid by an account owner to the program fund under Title 53B, Chapter 8a, Higher Education
1249 Savings Incentive Program, not to exceed amounts determined under Subsection
1250 53B-8a-106(1)(d), and investment income earned on account agreements entered into under
1251 Section 53B-8a-106 that is included in federal taxable income, but only when the funds are
1252 used for qualified higher education costs of the beneficiary;

1253 ~~(k)~~ (j) for taxable years beginning on or after January 1, 2000, any amounts paid for
1254 premiums for long-term care insurance as defined in Section 31A-1-301 to the extent the
1255 amounts paid for long-term care insurance were not deducted under Section 213, Internal
1256 Revenue Code, in determining federal taxable income;

1257 ~~(l)~~ (k) for taxable years beginning on or after January 1, 2000, if the conditions of
1258 Subsection (4)(a) are met, the amount of income derived by a Ute tribal member:

1259 (i) during a time period that the Ute tribal member resides on homesteaded land
1260 diminished from the Uintah and Ouray Reservation; and

1261 (ii) from a source within the Uintah and Ouray Reservation;

1262 ~~(m)~~ (l) (i) for taxable years beginning on or after January 1, 2003, the total amount of
1263 a resident or nonresident individual's short-term capital gain or long-term capital gain on a
1264 capital gain transaction:

1265 (A) that occurs on or after January 1, 2003;

1266 (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:

1267 (I) to purchase qualifying stock in a Utah small business corporation; and

1268 (II) within a 12-month period after the day on which the capital gain transaction occurs;
1269 and

1270 (C) if, prior to the purchase of the qualifying stock described in Subsection
1271 (2)~~(m)~~(l)(i)(B)(I), the resident or nonresident individual did not have an ownership interest in
1272 the Utah small business corporation that issued the qualifying stock; and

1273 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1274 commission may make rules:

1275 (A) defining the term "gross proceeds"; and

1276 (B) for purposes of Subsection (2)~~(m)~~(l)(i)(C), prescribing the circumstances under
1277 which a resident or nonresident individual has an ownership interest in a Utah small business
1278 corporation; ~~and~~

1279 ~~(m)~~ (m) for the taxable year beginning on or after January 1, 2005, but beginning on
1280 or before December 31, 2005, the first \$2,200 of income a qualifying military service member
1281 receives:

1282 (i) for service:

1283 (A) as a qualifying military service member; or

1284 (B) under an order into active service in accordance with Section 39-1-5; and

1285 (ii) to the extent that income is included in adjusted gross income on that resident or
1286 nonresident individual's federal individual income tax return for that taxable year[-];

1287 (n) an amount received by a resident or nonresident individual or distribution received
1288 by a resident beneficiary of a resident trust:

1289 (i) if that amount or distribution constitutes a refund of taxes imposed by:

1290 (A) a state;

1291 (B) the District of Columbia; or

1292 (C) a political subdivision of a state; and

1293 (ii) to the extent that amount or distribution is included in adjusted gross income for
1294 that taxable year on the federal individual income tax return of the resident or nonresident
1295 individual or resident beneficiary of a resident trust;

1296 (o) the amount of a railroad retirement benefit:

1297 (i) paid:

1298 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et

1299 seq.:
1300 (B) to a resident or nonresident individual; and
1301 (C) for the taxable year; and
1302 (ii) to the extent that railroad retirement benefit is included in adjusted gross income on
1303 that resident or nonresident individual's federal individual income tax return for that taxable
1304 year; and
1305 (p) an amount:
1306 (i) received by an enrolled member of an American Indian tribe; and
1307 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
1308 part on that amount in accordance with:
1309 (A) federal law;
1310 (B) a treaty; or
1311 (C) a final decision issued by a court of competent jurisdiction.
1312 (3) (a) For purposes of Subsection (2)(d), the amount of retirement income subtracted
1313 for taxpayers under 65 shall be the lesser of the amount included in federal taxable income, or
1314 \$4,800, except that:
1315 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income
1316 earned over \$32,000, the amount of the retirement income exemption that may be subtracted
1317 shall be reduced by 50 cents;
1318 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income
1319 earned over \$16,000, the amount of the retirement income exemption that may be subtracted
1320 shall be reduced by 50 cents; and
1321 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
1322 \$25,000, the amount of the retirement income exemption that may be subtracted shall be
1323 reduced by 50 cents.
1324 (b) For purposes of Subsection (2)(e), the amount of the personal retirement exemption
1325 shall be further reduced according to the following schedule:
1326 (i) for married taxpayers filing joint returns, for each \$1 of adjusted gross income
1327 earned over \$32,000, the amount of the personal retirement exemption shall be reduced by 50
1328 cents;
1329 (ii) for married taxpayers filing separate returns, for each \$1 of adjusted gross income

1330 earned over \$16,000, the amount of the personal retirement exemption shall be reduced by 50
1331 cents; and

1332 (iii) for individual taxpayers, for each \$1 of adjusted gross income earned over
1333 \$25,000, the amount of the personal retirement exemption shall be reduced by 50 cents.

1334 (c) For purposes of Subsections (3)(a) and (b), adjusted gross income shall be
1335 calculated by adding to federal adjusted gross income any interest income not otherwise
1336 included in federal adjusted gross income.

1337 (d) For purposes of determining ownership of items of retirement income common law
1338 doctrine will be applied in all cases even though some items may have originated from service
1339 or investments in a community property state. Amounts received by the spouse of a living
1340 retiree because of the retiree's having been employed in a community property state are not
1341 deductible as retirement income of such spouse.

1342 (e) For purposes of Subsection (2)~~(f)~~(g), a subtraction for an amount paid for health
1343 care insurance as defined in Title 31A, Chapter 1, General Provisions, is not allowed:

1344 (i) for an amount that is reimbursed or funded in whole or in part by the federal
1345 government, the state, or an agency or instrumentality of the federal government or the state;
1346 and

1347 (ii) for a taxpayer who is eligible to participate in a health plan maintained and funded
1348 in whole or in part by the taxpayer's employer or the taxpayer's spouse's employer.

1349 (4) (a) A subtraction for an amount described in Subsection (2)~~(f)~~(k) is allowed only
1350 if:

1351 (i) the taxpayer is a Ute tribal member; and

1352 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
1353 requirements of this Subsection (4).

1354 (b) The agreement described in Subsection (4)(a):

1355 (i) may not:

1356 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

1357 (B) provide a subtraction under this section greater than or different from the

1358 subtraction described in Subsection (2)~~(f)~~(k); or

1359 (C) affect the power of the state to establish rates of taxation; and

1360 (ii) shall:

- 1361 (A) provide for the implementation of the subtraction described in Subsection
1362 (2)(~~+~~)(k);
- 1363 (B) be in writing;
- 1364 (C) be signed by:
- 1365 (I) the governor; and
- 1366 (II) the chair of the Business Committee of the Ute tribe;
- 1367 (D) be conditioned on obtaining any approval required by federal law; and
- 1368 (E) state the effective date of the agreement.
- 1369 (c) (i) The governor shall report to the commission by no later than February 1 of each
1370 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is
1371 in effect.
- 1372 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
1373 subtraction permitted under Subsection (2)(~~+~~)(k) is not allowed for taxable years beginning on
1374 or after the January 1 following the termination of the agreement.
- 1375 (d) For purposes of Subsection (2)(~~+~~)(k) and in accordance with Title 63, Chapter 46a,
1376 Utah Administrative Rulemaking Act, the commission may make rules:
- 1377 (i) for determining whether income is derived from a source within the Uintah and
1378 Ouray Reservation; and
- 1379 (ii) that are substantially similar to how federal adjusted gross income derived from
1380 Utah sources is determined under Section 59-10-117.
- 1381 (5) (a) For purposes of this Subsection (5), "Form 8814" means:
- 1382 (i) the federal individual income tax Form 8814, Parents' Election To Report Child's
1383 Interest and Dividends; or
- 1384 (ii) (A) for taxable years beginning on or after January 1, 2002, a form designated by
1385 the commission in accordance with Subsection (5)(a)(ii)(B) as being substantially similar to
1386 2000 Form 8814 if for purposes of federal individual income taxes the information contained
1387 on 2000 Form 8814 is reported on a form other than Form 8814; and
- 1388 (B) for purposes of Subsection (5)(a)(ii)(A) and in accordance with Title 63, Chapter
1389 46a, Utah Administrative Rulemaking Act, the commission may make rules designating a form
1390 as being substantially similar to 2000 Form 8814 if for purposes of federal individual income
1391 taxes the information contained on 2000 Form 8814 is reported on a form other than Form

1392 8814.

1393 (b) The amount of a child's income added to adjusted gross income under Subsection

1394 (1)(c) is equal to the difference between:

1395 (i) the lesser of:

1396 (A) the base amount specified on Form 8814; and

1397 (B) the sum of the following reported on Form 8814:

1398 (I) the child's taxable interest;

1399 (II) the child's ordinary dividends; and

1400 (III) the child's capital gain distributions; and

1401 (ii) the amount not taxed that is specified on Form 8814.

1402 (6) Notwithstanding Subsection (1)(g), interest from bonds, notes, and other evidences

1403 of indebtedness issued by an entity described in Subsections (1)(g)(i) through (iv) may not be

1404 added to federal taxable income of a resident or nonresident individual if, as annually

1405 determined by the commission:

1406 (a) for an entity described in Subsection (1)(g)(i) or (ii), the entity and all of the

1407 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on

1408 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or

1409 (b) for an entity described in Subsection (1)(g)(iii) or (iv), the following do not impose

1410 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of

1411 this state:

1412 (i) the entity; or

1413 (ii) (A) the state in which the entity is located; or

1414 (B) the District of Columbia, if the entity is located within the District of Columbia.

1415 Section 14. Section **59-10-115** is amended to read:

1416 **59-10-115. Adjustments to state taxable income.**

1417 ~~[(1) If any provision of the Internal Revenue Code requires the inclusion of an item of~~

1418 ~~gross income or the allowance of an item of deduction from gross income in the computation~~

1419 ~~of federal taxable income of the taxpayer for any taxable year beginning on or after the~~

1420 ~~effective date of this chapter, and if such item has been taken into account in computing the~~

1421 ~~taxable income of the taxpayer for state income tax purposes for any prior taxable year, the~~

1422 ~~commission shall make or allow such adjustments to the taxpayer's state taxable income as are~~

1423 necessary to prevent the inclusion for a second time or the deduction for a second time of such
1424 item for state income tax purposes.]

1425 ~~[(2) If in a return filed for any taxable year beginning on or after the effective date of~~
1426 ~~this chapter, the taxpayer reports gain or loss from the disposition of property or claims a~~
1427 ~~deduction for depreciation of property, and if his basis for gain or loss on the disposition of~~
1428 ~~such property or for allowance of the depreciation deduction for the exhaustion, wear, and tear~~
1429 ~~thereof (including a reasonable allowance for obsolescence) is different for federal income tax~~
1430 ~~purposes than it would be for state income tax purposes if the provisions of former Title 59,~~
1431 ~~Chapter 14, were applicable to such taxable year, the commission shall (anything in this~~
1432 ~~chapter to the contrary notwithstanding) allow or make such adjustment to state taxable income~~
1433 ~~of the taxpayer for such taxable year as will result in the use by the taxpayer of the same basis,~~
1434 ~~for such purpose, that he would be allowed or required to use in reporting such gain or loss or~~
1435 ~~claiming such depreciation deduction if the provisions of former Title 59, Chapter 14, were~~
1436 ~~applicable to the taxable year.]~~

1437 ~~[(3) If the taxpayer receives, in any taxable year beginning on or after the effective date~~
1438 ~~of this chapter, a distribution from an electing small business corporation, as defined by~~
1439 ~~Section 1371(b) of the Internal Revenue Code, of a net share of the corporation's undistributed~~
1440 ~~taxable income for a taxable year or years prior to the taxable year in which such distribution is~~
1441 ~~made, the commission shall make such adjustment to state taxable income as will prevent~~
1442 ~~escape from taxation by this state of such undistributed taxable income previously taxed to the~~
1443 ~~taxpayer for federal income tax purposes but not for state income tax purposes.]~~

1444 ~~[(4)] (1) The commission shall [by rule prescribe for adjustments] allow an adjustment~~
1445 ~~to state taxable income of [the] a taxpayer [in circumstances other than those specified by~~
1446 ~~Subsections (1), (2), and (3) of this section where, solely by reason of the enactment of this~~
1447 ~~chapter,] if the taxpayer would otherwise;~~

1448 ~~(a) receive [or have received] a double tax benefit under this part; or~~

1449 ~~(b) suffer [or have suffered] a double tax detriment under this part. [Anything in this~~
1450 ~~section or this chapter to the contrary notwithstanding, the commission may not make any~~
1451 ~~adjustment pursuant to this section which will result in an increase or decrease of tax liability~~
1452 ~~the amount of which is less than \$25.]~~

1453 ~~(2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the~~

1454 commission may make rules to allow for the adjustment to state taxable income required by
1455 Subsection (1).

1456 Section 15. Section **59-10-201** is amended to read:

1457 **59-10-201. Taxation of resident trusts and estates.**

1458 (1) A tax determined in accordance with the rates prescribed by Section 59-10-104 for
1459 individuals filing separately is imposed for each taxable year on the state taxable income of
1460 each resident estate or trust, except for trusts taxed as corporations.

1461 (2) A resident estate or trust shall be allowed the credit provided in Section
1462 [~~59-10-106~~] 59-10-1003, relating to an income tax imposed by another state, except that the
1463 limitation shall be computed by reference to the taxable income of the estate or trust.

1464 (3) The property of the trust established in Title 53B, Chapter 8a, Higher Education
1465 Savings Incentive Program, and its income from operations and investments are exempt from
1466 all taxation by the state under this chapter.

1467 Section 16. Section **59-10-201.1** is amended to read:

1468 **59-10-201.1. State taxable income of resident estate or trust defined.**

1469 The state taxable income of a resident estate or trust means its federal taxable income as
1470 defined in [~~Subsections (a) and (b),~~] Section 641 (a) and (b), Internal Revenue Code, as
1471 adjusted by Sections 59-10-202, 59-10-209.1, and [~~59-10-209~~] 59-10-210.

1472 Section 17. Section **59-10-202** is amended to read:

1473 **59-10-202. Additions to and subtractions from state taxable income of resident or**
1474 **nonresident estate or trust.**

1475 (1) There shall be added to federal taxable income of a resident or nonresident estate or
1476 trust:

1477 (a) the amount of any income tax imposed by this or any predecessor Utah individual
1478 income tax law and the amount of any income tax imposed by the laws of another state, the
1479 District of Columbia, or a possession of the United States, to the extent deducted from federal
1480 adjusted total income as defined in Section 62, Internal Revenue Code, in determining federal
1481 taxable income;

1482 (b) a lump sum distribution allowable as a deduction under Section 402(d)(3) of the
1483 Internal Revenue Code, to the extent deductible under Section 62(a)(8) of the Internal Revenue
1484 Code in determining federal adjusted gross income; [~~and~~]

1485 ~~[(c) the amount of any gain as defined in Section 644(b) of the Internal Revenue Code,~~
1486 ~~to the extent deductible under Section 641(c) of the Internal Revenue Code in determining the~~
1487 ~~federal taxable income of a trust.]~~

1488 (c) except as provided in Subsection (3), for taxable years beginning on or after
1489 January 1, 2003, for bonds, notes, and other evidences of indebtedness acquired on or after
1490 January 1, 2003, the interest from bonds, notes, and other evidences of indebtedness issued by
1491 one or more of the following entities:

1492 (i) a state other than this state;

1493 (ii) the District of Columbia;

1494 (iii) a political subdivision of a state other than this state; or

1495 (iv) an agency or instrumentality of an entity described in Subsections (1)(c)(i) through
1496 (iii);

1497 (d) any portion of federal taxable income for a taxable year if that federal taxable
1498 income is derived from stock:

1499 (i) in an S corporation; and

1500 (ii) that is held by an electing small business trust; and

1501 (e) any fiduciary adjustments required by Section 59-10-210.

1502 (2) There shall be subtracted from federal taxable income of a resident or nonresident
1503 estate or trust:

1504 (a) the interest or ~~[dividends]~~ a dividend on obligations or securities of the United
1505 States and its possessions or of any authority, commission, or instrumentality of the United
1506 States, to the extent ~~[includable]~~ that interest or dividend is included in gross income for
1507 federal income tax purposes for the taxable year but exempt from state income taxes under the
1508 laws of the United States, but the amount subtracted under this Subsection (2) shall be reduced
1509 by any interest on indebtedness incurred or continued to purchase or carry the obligations or
1510 securities described in this Subsection (2), and by any expenses incurred in the production of
1511 interest or dividend income described in this Subsection (2) to the extent that such expenses,
1512 including amortizable bond premiums, are deductible in determining federal taxable income;

1513 (b) 1/2 of the net amount of any income tax paid or payable to the United States after
1514 all allowable credits, as per the United States fiduciary income tax return of the taxpayer for the
1515 same taxable year; ~~[and]~~

1516 (c) income of an irrevocable resident trust if:

1517 (i) the income would not be treated as state taxable income derived from Utah sources

1518 under Section 59-10-204 if received by a nonresident trust;

1519 (ii) the trust first became a resident trust on or after January 1, 2004;

1520 (iii) no assets of the trust were held, at any time after January 1, 2003, in another

1521 resident irrevocable trust created by the same settlor or the spouse of the same settlor;

1522 (iv) the trustee of the trust is a trust company as defined in Subsection 7-5-1(1)(d);

1523 (v) the amount subtracted under this Subsection (2) is reduced to the extent the settlor

1524 or any other person is treated as an owner of any portion of the trust under Subtitle A,

1525 Subchapter J, Subpart E of the Internal Revenue Code; and

1526 (vi) the amount subtracted under this Subsection (2) is reduced by any interest on

1527 indebtedness incurred or continued to purchase or carry the assets generating the income

1528 described in this Subsection (2), and by any expenses incurred in the production of income

1529 described in this Subsection (2), to the extent that those expenses, including amortizable bond

1530 premiums, are deductible in determining federal taxable income[-];

1531 (d) for taxable years beginning on or after January 1, 2000, if the conditions of

1532 Subsection (4)(a) are met, the amount of income of a resident or nonresident estate or trust

1533 derived from a deceased Ute tribal member:

1534 (i) during a time period that the Ute tribal member resided on homesteaded land

1535 diminished from the Uintah and Ouray Reservation; and

1536 (ii) from a source within the Uintah and Ouray Reservation;

1537 (e) (i) for taxable years beginning on or after January 1, 2003, the total amount of a

1538 resident or nonresident estate's or trust's short-term capital gain or long-term capital gain on a

1539 capital gain transaction:

1540 (A) that occurs on or after January 1, 2003;

1541 (B) if 70% or more of the gross proceeds of the capital gain transaction are expended:

1542 (I) to purchase qualifying stock in a Utah small business corporation; and

1543 (II) within a 12-month period after the day on which the capital gain transaction occurs;

1544 and

1545 (C) if, prior to the purchase of the qualifying stock described in Subsection

1546 (2)(e)(i)(B)(I), the resident or nonresident estate or trust did not have an ownership interest in

1547 the Utah small business corporation that issued the qualifying stock; and
1548 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1549 commission may make rules:
1550 (A) defining the term "gross proceeds"; and
1551 (B) for purposes of Subsection (2)(e)(i)(C), prescribing the circumstances under which
1552 a resident or nonresident estate or trust has an ownership interest in a Utah small business
1553 corporation;
1554 (f) for the taxable year beginning on or after January 1, 2005, but beginning on or
1555 before December 31, 2005, the first \$2,200 of income of a resident or nonresident estate or
1556 trust that is derived from a deceased qualifying military service member:
1557 (i) for service:
1558 (A) as a qualifying military service member; or
1559 (B) under an order into active service in accordance with Section 39-1-5; and
1560 (ii) to the extent that income is included in total income on that resident or nonresident
1561 estate's or trust's federal income tax return for estates and trusts for that taxable year;
1562 (g) any amount:
1563 (i) received by a resident or nonresident estate or trust;
1564 (ii) that constitutes a refund of taxes imposed by:
1565 (A) a state;
1566 (B) the District of Columbia; or
1567 (C) a political subdivision of a state; and
1568 (iii) to the extent that amount is included in total income on that resident or nonresident
1569 estate's or trust's federal tax return for estates and trusts for that taxable year;
1570 (h) the amount of a railroad retirement benefit:
1571 (i) paid:
1572 (A) in accordance with The Railroad Retirement Act of 1974, 45 U.S.C. Sec. 231 et
1573 seq.;
1574 (B) to a resident or nonresident estate or trust derived from a deceased resident or
1575 nonresident individual; and
1576 (C) for the taxable year; and
1577 (ii) to the extent that railroad retirement benefit is included in total income on that

1578 resident or nonresident estate's or trust's federal tax return for estates and trusts;
1579 (i) an amount:
1580 (i) received by a resident or nonresident estate or trust if that amount is derived from a
1581 deceased enrolled member of an American Indian tribe; and
1582 (ii) to the extent that the state is not authorized or permitted to impose a tax under this
1583 part on that amount in accordance with:
1584 (A) federal law;
1585 (B) a treaty; or
1586 (C) a final decision issued by a court of competent jurisdiction; and
1587 (j) any fiduciary adjustments required by Section 59-10-210.
1588 (3) Notwithstanding Subsection (1)(c), interest from bonds, notes, and other evidences
1589 of indebtedness issued by an entity described in Subsections (1)(c)(i) through (iv) may not be
1590 added to federal taxable income of a resident or nonresident estate or trust if, as annually
1591 determined by the commission:
1592 (a) for an entity described in Subsection (1)(c)(i) or (ii), the entity and all of the
1593 political subdivisions, agencies, or instrumentalities of the entity do not impose a tax based on
1594 income on any part of the bonds, notes, and other evidences of indebtedness of this state; or
1595 (b) for an entity described in Subsection (1)(c)(iii) or (iv), the following do not impose
1596 a tax based on income on any part of the bonds, notes, and other evidences of indebtedness of
1597 this state:
1598 (i) the entity; or
1599 (ii) (A) the state in which the entity is located; or
1600 (B) the District of Columbia, if the entity is located within the District of Columbia.
1601 (4) (a) A subtraction for an amount described in Subsection (2)(d) is allowed only if:
1602 (i) the income is derived from a deceased Ute tribal member; and
1603 (ii) the governor and the Ute tribe execute and maintain an agreement meeting the
1604 requirements of this Subsection (4).
1605 (b) The agreement described in Subsection (4)(a):
1606 (i) may not:
1607 (A) authorize the state to impose a tax in addition to a tax imposed under this chapter;
1608 (B) provide a subtraction under this section greater than or different from the

1609 subtraction described in Subsection (2)(d); or
1610 (C) affect the power of the state to establish rates of taxation; and
1611 (ii) shall:
1612 (A) provide for the implementation of the subtraction described in Subsection (2)(d);
1613 (B) be in writing;
1614 (C) be signed by:
1615 (I) the governor; and
1616 (II) the chair of the Business Committee of the Ute tribe;
1617 (D) be conditioned on obtaining any approval required by federal law; and
1618 (E) state the effective date of the agreement.
1619 (c) (i) The governor shall report to the commission by no later than February 1 of each
1620 year regarding whether or not an agreement meeting the requirements of this Subsection (4) is
1621 in effect.
1622 (ii) If an agreement meeting the requirements of this Subsection (4) is terminated, the
1623 subtraction permitted under Subsection (2)(d) is not allowed for taxable years beginning on or
1624 after the January 1 following the termination of the agreement.
1625 (d) For purposes of Subsection (2)(d) and in accordance with Title 63, Chapter 46a,
1626 Utah Administrative Rulemaking Act, the commission may make rules:
1627 (i) for determining whether income is derived from a source within the Uintah and
1628 Ouray Reservation; and
1629 (ii) that are substantially similar to how federal adjusted gross income derived from
1630 Utah sources is determined under Section 59-10-117.
1631 Section 18. Section **59-10-207** is amended to read:
1632 **59-10-207. Share of a nonresident estate or trust and beneficiaries in state taxable**
1633 **income.**
1634 (1) The share of a nonresident estate or trust and its beneficiaries in items of income,
1635 gain, loss, and deduction entering into the definition of distributable net income and the share
1636 for purposes of Section 59-10-116 of a nonresident beneficiary of any estate or trust in estate or
1637 trust income, gain, loss, and deduction shall be determined as follows:
1638 (a) To the amount of items of income, gain, loss, and deduction that enter into the
1639 definition of distributable net income there shall be added or subtracted, as the case may be, the

1640 modifications described in Sections 59-10-202 and ~~[59-10-209]~~ 59-10-210 to the extent they
1641 relate to items of income, gain, loss, and deduction that also enter into the definition of
1642 distributable net income. No modification shall be made under this section that has the effect
1643 of duplicating an item already reflected in the definition of distributable net income.

1644 (b) The amount determined under Subsection (1)(a) shall be allocated among the estate
1645 or trust and its beneficiaries (including solely for the purpose of this allocation, resident
1646 beneficiaries) in proportion to their respective shares of federal distributable net income. The
1647 amounts so allocated shall have the same character as for federal income tax purposes.

1648 (c) If the estate or trust has no federal distributable net income for the taxable year, the
1649 share of each beneficiary in the net amount determined under Subsection (1)(a) shall be in
1650 proportion to his share of the estate or trust income for such year, under state law or the terms
1651 of the governing instrument, that is required to be distributed currently and any other amounts
1652 of such income distributed in such year. Any balance of such net income shall be allocated to
1653 the estate or trust.

1654 (2) The commission may by rule establish such other method or methods of
1655 determining the respective shares of the beneficiaries and of the estate or trust in its income
1656 derived from sources in this state, and in the modifications related thereto, as may be
1657 appropriate and equitable. The fiduciary may elect to use any other methods prescribed in this
1658 subsection only when the allocation of such respective shares under this section would result in
1659 an inequity in the allocation which is substantial both in amount and in relation to the total
1660 amount of the modifications referred to in Subsection (1)(a).

1661 Section 19. Section **59-10-209.1** is enacted to read:

1662 **59-10-209.1. Adjustments to state taxable income.**

1663 (1) The commission shall allow an adjustment to state taxable income of a resident or
1664 nonresident estate or trust if the resident or nonresident estate or trust would otherwise:

1665 (a) receive a double tax benefit under this chapter; or

1666 (b) suffer a double tax detriment under this chapter.

1667 (2) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1668 commission may make rules to allow for the adjustment to state taxable income required by
1669 Subsection (1).

1670 Section 20. Section **59-10-210** is amended to read:

1671 **59-10-210. Fiduciary adjustments.**

1672 ~~[(1) The fiduciary adjustments are the amounts of the modifications described in~~
 1673 ~~Subsections 59-10-202 (1)(a) and (2)(a), including such items from another estate or trust of~~
 1674 ~~which the first estate or trust is a beneficiary.]~~

1675 (1) A share of the fiduciary adjustments described in Subsection (2) shall be added to
 1676 or subtracted from federal taxable income:

1677 (a) of:

1678 (i) a resident or nonresident estate or trust; or

1679 (ii) a resident or nonresident beneficiary of a resident or nonresident estate or trust; and

1680 (b) as provided in this section.

1681 (2) For purposes of Subsection (1), the fiduciary adjustments are the following
 1682 amounts:

1683 (a) the additions to and subtractions from federal taxable income of a resident or
 1684 nonresident estate or trust required by Section 59-10-202, except for Subsection
 1685 59-10-202(2)(b);

1686 (b) a tax credit claimed by a resident or nonresident estate or trust in accordance with:

1687 (i) Section 59-6-102;

1688 (ii) Part 10, Nonrefundable Tax Credit Act;

1689 (iii) Part 11, Refundable Tax Credit Act;

1690 (iv) Section 59-13-202;

1691 (v) Section 63-38f-413; or

1692 (vi) Section 63-38f-503.

1693 ~~[(2)]~~ (3) (a) The respective shares of an estate or trust and its beneficiaries, [(including
 1694 ~~solely] including~~ for the purpose of this allocation[;] a nonresident [beneficiaries] beneficiary,
 1695 in the state fiduciary adjustments, shall be allocated in proportion to their respective shares of
 1696 federal distributable net income of the estate or trust.

1697 (b) If the estate or trust described in Subsection (3)(a) has no federal distributable net
 1698 income for the taxable year, the share of each beneficiary in the fiduciary adjustments shall be
 1699 allocated in proportion to [his] that beneficiary's share of the estate or trust income for [such]
 1700 the taxable year[; which] that is, under state law or the governing instrument, required to be
 1701 distributed currently plus any other amounts of [such] that income distributed in [such] that

1702 taxable year. [Any]

1703 (c) After making the allocations required by Subsections (3)(a) and (b), any balance of
1704 the fiduciary adjustments shall be allocated to the estate or trust.

1705 [~~(3) The~~] (4) (a) The commission shall allow a fiduciary to use a method for
1706 determining the allocation of the fiduciary adjustments described in Subsection (2) other than
1707 the method described in Subsection (3) if using the method described in Subsection (3) results
1708 in an inequity:

1709 (i) in allocating the fiduciary adjustments described in Subsection (2); and

1710 (ii) if the inequity is substantial:

1711 (A) in amount; and

1712 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
1713 (2).

1714 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1715 commission may [~~by rule and upon such terms and conditions as it may prescribe, authorize the~~
1716 use of such other appropriate and equitable method or methods] make rules authorizing a
1717 fiduciary to use a method for determining [attribution and] the allocation of the fiduciary
1718 adjustments[. ~~The fiduciary may elect to use any other methods prescribed in this subsection~~
1719 only when the allocation of such respective fiduciary adjustments under this section would
1720 result in an inequity in the allocation which is substantial both in amount and in relation to the
1721 total amount of the modifications referred to in Subsection (1). ~~(4) The taxable income of an~~
1722 estate or trust shall be adjusted by the deduction of the income of that estate or trust to the
1723 extent of and for so long as such income is distributed or is distributable to or otherwise
1724 accrues to the benefit of a person who has been declared by a court of competent jurisdiction to
1725 be mentally incompetent. ~~The commission may promulgate rules necessary to provide for this~~
1726 adjustment.] described in Subsection (2) other than the method described in Subsection (3) if
1727 using the method described in Subsection (3) results in an inequity:

1728 (i) in allocating the fiduciary adjustments described in Subsection (2); and

1729 (ii) if the inequity is substantial:

1730 (A) in amount; and

1731 (B) in relation to the total amount of the fiduciary adjustments described in Subsection
1732 (2).

1733 Section 21. Section **59-10-1001** is enacted to read:

1734 **Part 10. Nonrefundable Tax Credit Act**

1735 **59-10-1001. Title.**

1736 This part is known as the "Nonrefundable Tax Credit Act."

1737 Section 22. Section **59-10-1002** is enacted to read:

1738 **59-10-1002. Definitions.**

1739 As used in this part:

1740 (1) (a) Except as provided in Subsection (1)(b) and Subsection 59-10-1003(2),
 1741 "claimant" means a resident or nonresident person that has state taxable income under Part 1,
 1742 Determination and Reporting of Tax Liability and Information.

1743 (b) "Claimant" does not include an estate or trust.

1744 (2) Except as provided in Subsection 59-10-1003(2), "estate" means a nonresident
 1745 estate or a resident estate that has state taxable income under Part 2, Trusts and Estates.

1746 (3) "Nonrefundable tax credit" or "tax credit" means a tax credit that a claimant, estate,
 1747 or trust may:

1748 (a) claim:

1749 (i) as provided by statute; and

1750 (ii) in an amount that does not exceed the claimant's, estate's, or trust's tax liability
 1751 under this chapter for a taxable year; and

1752 (b) carry forward or carry back:

1753 (i) if allowed by statute; and

1754 (ii) to the extent that the amount of the tax credit exceeds the claimant's, estate's, or
 1755 trust's tax liability under this chapter for a taxable year.

1756 (4) Except as provided in Subsection 59-10-1003(2), "trust" means a nonresident trust
 1757 or a resident trust that has state taxable income under Part 2, Trusts and Estates.

1758 Section 23. Section **59-10-1003**, which is renumbered from Section 59-10-106 is
 1759 renumbered and amended to read:

1760 ~~[59-10-106].~~ **59-10-1003. Tax credit for tax paid by individual to another**
 1761 **state.**

1762 (1) ~~[A resident individual shall be allowed a]~~ Except as provided in Subsection (2), a
 1763 claimant, estate, or trust may claim a nonrefundable tax credit against the tax otherwise due

1764 under this chapter equal to the amount of the tax imposed;

1765 (a) on ~~[him]~~ that claimant, estate, or trust for the taxable year;

1766 (b) by another state of the United States, the District of Columbia, or a possession of
1767 the United States~~;~~; and

1768 (c) on income;

1769 (i) derived from sources ~~[therein which]~~ within that other state of the United States,

1770 District of Columbia, or possession of the United States; and

1771 (ii) if that income is also subject to tax under this chapter.

1772 (2) A tax credit under this section may only be claimed by a:

1773 (a) resident claimant;

1774 (b) resident estate; or

1775 (c) resident trust.

1776 ~~[(2)]~~ (3) The application of the tax credit provided under this section ~~[shall]~~ may not
1777 operate to reduce the tax payable under this chapter to an amount less than would have been
1778 payable were the income from the other state disregarded.

1779 ~~[(3)]~~ (4) The tax credit provided by this section shall be computed and claimed in
1780 accordance with rules prescribed by the commission.

1781 Section 24. Section **59-10-1004**, which is renumbered from Section 59-10-108 is
1782 renumbered and amended to read:

1783 ~~[59-10-108].~~ **59-10-1004. Tax credit for cash contributions to sheltered**
1784 **workshops.**

1785 (1) For tax years beginning January 1, 1983, and thereafter, in computing the tax due
1786 the state under Section 59-10-104 there shall be a nonrefundable tax credit allowed for cash
1787 contributions made by a claimant, estate, or trust within the taxable year to nonprofit
1788 rehabilitation sheltered workshop facilities for persons with a disability operating in Utah that
1789 are certified by the Department of Human Services as a qualifying facility.

1790 (2) The allowable tax credit is an amount equal to 50% of the aggregate amount of the
1791 cash contributions to the qualifying rehabilitation facilities, but the allowed tax credit may not
1792 exceed \$200.

1793 (3) The amount of contribution claimed as a tax credit under this section may not also
1794 be claimed as a charitable deduction in determining net taxable income.

1795 Section 25. Section **59-10-1005**, which is renumbered from Section 59-10-108.1 is
1796 renumbered and amended to read:

1797 ~~[59-10-108.1].~~ **59-10-1005. Tax credit for at-home parent.**

1798 (1) As used in this section:

1799 (a) "At-home parent" means a parent:

1800 (i) who provides full-time care at the parent's residence for one or more of the parent's
1801 own qualifying children;

1802 (ii) who claims the qualifying child as a dependent on the parent's individual income
1803 tax return for the taxable year for which the parent claims the credit; and

1804 (iii) if the sum of the following amounts are \$3,000 or less for the taxable year for
1805 which the parent claims the credit:

1806 (A) the total wages, tips, and other compensation listed on all of the parent's federal
1807 Forms W-2; and

1808 (B) the gross income listed on the parent's federal Form 1040 Schedule C, Profit or
1809 Loss From Business.

1810 (b) "Parent" means an individual who:

1811 (i) is the biological mother or father of a qualifying child;

1812 (ii) is the stepfather or stepmother of a qualifying child;

1813 (iii) (A) legally adopts a qualifying child; or

1814 (B) has a qualifying child placed in the individual's home:

1815 (I) by a child placing agency as defined in Section 62A-4a-601; and

1816 (II) for the purpose of legally adopting the child;

1817 (iv) is a foster parent of a qualifying child; or

1818 (v) is a legal guardian of a qualifying child.

1819 (c) "Qualifying child" means a child who is no more than 12 months of age on the last
1820 day of the taxable year for which the tax credit is claimed.

1821 (2) For taxable years beginning on or after January 1, 2000, a taxpayer claimant may
1822 claim on the taxpayer's claimant's individual income tax return a nonrefundable tax credit of
1823 \$100 for each qualifying child if:

1824 (a) the taxpayer claimant or another taxpayer claimant filing a joint individual
1825 income tax return with the taxpayer claimant is an at-home parent; and

1826 (b) the federal adjusted gross income of all of the ~~[taxpayers]~~ claimants filing the
1827 individual income tax return is less than or equal to \$50,000.

1828 (3) A ~~[taxpayer]~~ claimant may not carry forward or carry back a tax credit authorized
1829 by this section.

1830 (4) It is the intent of the Legislature that for fiscal years beginning on or after fiscal
1831 year 2000-01, the Legislature appropriate from the General Fund a sufficient amount to replace
1832 Uniform School Fund revenues expended to provide for the tax credit under this section.

1833 Section 26. Section **59-10-1006**, which is renumbered from Section 59-10-108.5 is
1834 renumbered and amended to read:

1835 ~~[59-10-108.5].~~ **59-10-1006. Historic preservation tax credit.**

1836 (1) (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to
1837 ~~[resident individuals]~~ a claimant, estate, or trust, as a nonrefundable tax credit against the
1838 income tax due, an amount equal to 20% of qualified rehabilitation expenditures, costing more
1839 than \$10,000, incurred in connection with any residential certified historic building. When
1840 qualifying expenditures of more than \$10,000 are incurred, the tax credit allowed by this
1841 section shall apply to the full amount of expenditures.

1842 (b) All rehabilitation work to which the tax credit may be applied shall be approved by
1843 the State Historic Preservation Office prior to completion of the rehabilitation project as
1844 meeting the Secretary of the Interior's Standards for Rehabilitation so that the office can
1845 provide corrective comments to the ~~[taxpayer]~~ claimant, estate, or trust in order to preserve the
1846 historical qualities of the building.

1847 (c) Any amount of tax credit remaining may be carried forward to each of the five
1848 taxable years following the qualified expenditures.

1849 (d) The commission, in consultation with the Division of State History, shall
1850 promulgate rules to implement this section.

1851 (2) As used in this section:

1852 (a) "Certified historic building" means a building that is listed on the National Register
1853 of Historic Places within three years of taking the credit under this section or that is located in a
1854 National Register Historic District and the building has been designated by the Division of
1855 State History as being of significance to the district.

1856 (b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable

1857 to the rehabilitation and restoration of the physical elements of the building, including the
 1858 historic decorative elements, and the upgrading of the structural, mechanical, electrical, and
 1859 plumbing systems to applicable codes.

1860 (ii) "Qualified rehabilitation expenditures" does not include expenditures related to:

1861 (A) [~~the taxpayer's~~] a claimant's, estate's, or trust's personal labor;

1862 (B) cost of acquisition of the property;

1863 (C) any expenditure attributable to the enlargement of an existing building;

1864 (D) rehabilitation of a certified historic building without the approval required in

1865 Subsection (1)(b); or

1866 (E) any expenditure attributable to landscaping and other site features, outbuildings,
 1867 garages, and related features.

1868 (c) "Residential" means a building used for residential use, either owner occupied or
 1869 income producing.

1870 Section 27. Section **59-10-1007**, which is renumbered from Section 59-10-108.7 is
 1871 renumbered and amended to read:

1872 ~~[59-10-108.7].~~ **59-10-1007. Recycling market development zones tax credit.**

1873 (1) For taxable years beginning on or after January 1, 1996, [~~an individual~~] a claimant,
 1874 estate, or trust in a recycling market development zone as defined in Section 63-38f-1102 may
 1875 claim a nonrefundable tax credit as provided in this section.

1876 (a) (i) There shall be allowed a [~~nonrefundable~~] tax credit of 5% of the purchase price
 1877 paid for machinery and equipment used directly in:

1878 (A) commercial composting; or

1879 (B) manufacturing facilities or plant units that:

1880 (I) manufacture, process, compound, or produce recycled items of tangible personal
 1881 property for sale; or

1882 (II) reduce or reuse postconsumer waste material.

1883 (ii) The Governor's Office of Economic Development shall certify that the machinery
 1884 and equipment described in Subsection (1)(a)(i) are integral to the composting or recycling
 1885 process:

1886 (A) on a form provided by the commission; and

1887 (B) before a [~~taxpayer~~] claimant, estate, or trust is allowed a tax credit under this

1888 section.

1889 (iii) The Governor's Office of Economic Development shall provide a [~~taxpayer~~
1890 claimant, estate, or trust seeking to claim a tax credit under this section with a copy of the form
1891 described in Subsection (1)(a)(ii).

1892 (iv) The [~~taxpayer~~ claimant, estate, or trust] described in Subsection (1)(a)(iii) shall
1893 retain a copy of the form received under Subsection (1)(a)(iii).

1894 (b) There shall be allowed a [~~nonrefundable~~] tax credit equal to 20% of net
1895 expenditures up to \$10,000 to third parties for rent, wages, supplies, tools, test inventory, and
1896 utilities made by the [~~taxpayer~~ claimant, estate, or trust] for establishing and operating
1897 recycling or composting technology in Utah, with an annual maximum tax credit of \$2,000.

1898 (2) The total [~~nonrefundable~~] tax credit allowed under this section may not exceed 40%
1899 of the Utah income tax liability of the [~~taxpayer~~ claimant, estate, or trust] prior to any tax
1900 credits in the taxable year of purchase prior to claiming the tax credit authorized by this
1901 section.

1902 (3) (a) Any tax credit not used for the taxable year in which the purchase price on
1903 composting or recycling machinery and equipment was paid may be carried [~~over for credit~~
1904 forward] against the [~~individual's income taxes~~] claimant's, estate's, or trusts's tax liability under
1905 this chapter in the three succeeding taxable years until the total tax credit amount is used.

1906 (b) Tax credits not claimed by [~~an individual~~] a claimant, estate, or trust on the
1907 [~~individual's state income tax~~] claimant's, estate's, or trust's tax return under this chapter within
1908 three years are forfeited.

1909 (4) The commission shall make rules governing what information shall be filed with
1910 the commission to verify the entitlement to and amount of a tax credit.

1911 (5) (a) Notwithstanding Subsection (1)(a), for taxable years beginning on or after
1912 January 1, 2001, a [~~taxpayer~~ claimant, estate, or trust] may not claim or carry forward a tax
1913 credit described in Subsection (1)(a) in a taxable year during which the [~~taxpayer~~ claimant,
1914 estate, or trust] claims or carries forward a tax credit under Section 63-38f-413.

1915 (b) For a taxable year other than a taxable year during which the [~~taxpayer~~ claimant,
1916 estate, or trust] may not claim or carry forward a tax credit in accordance with Subsection (5)(a),
1917 a [~~taxpayer~~ claimant, estate, or trust] may claim or carry forward a tax credit described in
1918 Subsection (1)(a):

1919 (i) if the [taxpayer] claimant, estate, or trust may claim or carry forward the tax credit
 1920 in accordance with Subsections (1) and (2); and

1921 (ii) subject to Subsections (3) and (4).

1922 (6) Notwithstanding Subsection (1)(b), for taxable years beginning on or after January
 1923 1, 2001, a [taxpayer] claimant, estate, or trust may not claim a tax credit described in
 1924 Subsection (1)(b) in a taxable year during which the [taxpayer] claimant, estate, or trust claims
 1925 or carries forward a tax credit under Section 63-38f-413.

1926 (7) A [taxpayer] claimant, estate, or trust may not claim or carry forward a tax credit
 1927 available under this section for a taxable year during which the [taxpayer] claimant, estate, or
 1928 trust has claimed the targeted business income tax credit available under Section 63-38f-503.

1929 Section 28. Section **59-10-1008**, which is renumbered from Section 59-10-109 is
 1930 renumbered and amended to read:

1931 **~~[59-10-109]~~. 59-10-1008. Targeted jobs nonrefundable tax credit.**

1932 (1) As used in this section, "individual with a disability" means an individual who:

1933 (a) has been receiving services:

1934 (i) from a day-training program that is:

1935 (A) for persons with disabilities; and

1936 (B) certified by the Department of Human Services as a qualifying program; and

1937 (ii) for at least six consecutive months prior to working for the [employer] claimant,
 1938 estate, or trust claiming the tax credit under this section; or

1939 (b) is eligible for services from the Division of Services for People with Disabilities at
 1940 the time the individual begins working for the [employer] claimant, estate, or trust claiming the
 1941 tax credit under this section.

1942 (2) For taxable years beginning on or after January 1, 1995, there is allowed a
 1943 nonrefundable tax credit against tax otherwise due under this chapter for [an employer] a
 1944 claimant, estate, or trust that:

1945 (a) meets the unemployment and workers' compensation requirements of Title 34A,
 1946 Utah Labor Code; and

1947 (b) hires an individual with a disability who:

1948 (i) works in this state for at least 180 days in a taxable year for that [employer]
 1949 claimant, estate, or trust; and

1950 (ii) is paid at least minimum wages by that [~~employer~~] claimant, estate, or trust.

1951 (3) The tax credit shall be in an amount equal to:

1952 (a) 10% of the gross wages earned in the first 180 days of employment by the
1953 individual with a disability from the [~~employer~~] claimant, estate, or trust seeking the tax credit;
1954 and

1955 (b) 20% of the gross wages earned in the remaining taxable year by the individual with
1956 a disability from the [~~employer~~] claimant, estate, or trust seeking the tax credit.

1957 (4) The tax credit [~~which~~] that may be taken by [~~an employer~~] a claimant, estate, or
1958 trust under this section shall be:

1959 (a) limited to \$3,000 per year per individual with a disability; and

1960 (b) allowed only for the first two years the individual with a disability is employed by
1961 the [~~employer~~] claimant, estate, or trust.

1962 (5) Any amount of tax credit remaining may be carried forward two taxable years
1963 following the taxable year of the employment eligible for the tax credit provided in this section.

1964 (6) (a) The Division of Services for People with Disabilities shall certify that [~~an~~
1965 ~~employer~~] a claimant, estate, or trust qualifies for the tax credit provided in this section on a
1966 form provided by the commission.

1967 (b) The form described in Subsection (6)(a) shall include the name and Social Security
1968 number of the individual for whom the tax credit is claimed.

1969 (c) The Division of Services for People with Disabilities shall provide the [~~employer~~]
1970 claimant, estate, or trust described in Subsection (6)(a) with a copy of the form described in
1971 this Subsection (6).

1972 (d) The [~~employer~~] claimant, estate, or trust described in Subsection (6)(a) shall retain
1973 the form described in this Subsection (6).

1974 Section 29. Section **59-10-1009**, which is renumbered from Section 59-10-127 is
1975 renumbered and amended to read:

1976 **[59-10-127]. 59-10-1009. Definitions -- Cleaner burning fuels tax credit.**

1977 (1) As used in this section:

1978 (a) "Board" means the Air Quality Board created in Title 19, Chapter 2, Air
1979 Conservation Act.

1980 (b) "Certified by the board" means that:

1981 (i) a motor vehicle on which conversion equipment has been installed meets the
1982 following criteria:

1983 (A) before the installation of conversion equipment, the vehicle does not exceed the
1984 emission cut points for a transient test driving cycle, as specified in 40 C.F.R. Part 51,
1985 Appendix E to Subpart S, or an equivalent test for the make, model, and year of the vehicle;

1986 (B) the motor vehicle's emissions of regulated pollutants, when operating on fuels
1987 listed in Subsection (2)(a)(ii)(A) or (2)(a)(ii)(B), is less than the emissions were before the
1988 installation of conversion equipment; and

1989 (C) a reduction in emissions under Subsection (1)(b)(i)(B) is demonstrated by:

1990 (I) certification of the conversion equipment by the federal Environmental Protection
1991 Agency or by a state whose certification standards are recognized by the board;

1992 (II) testing the motor vehicle, before and after installation of the conversion equipment,
1993 in accordance with 40 C.F.R. Part 86, Control Emissions from New and In-use Highway
1994 Vehicles and Engines, using all fuels the motor vehicle is capable of using; or

1995 (III) any other test or standard recognized by board rule; or

1996 (ii) special mobile equipment on which conversion equipment has been installed meets
1997 the following criteria:

1998 (A) the special mobile equipment's emissions of regulated pollutants, when operating
1999 on fuels listed in Subsection (2)(a)(iii)(A) or (2)(a)(iii)(B), is less than the emissions were
2000 before the installation of conversion equipment; and

2001 (B) a reduction in emissions under Subsection (1)(b)(ii)(A) is demonstrated by:

2002 (I) certification of the conversion equipment by the federal Environmental Protection
2003 Agency or by a state whose certification standards are recognized by the board; or

2004 (II) any other test or standard recognized by the board.

2005 (c) "Clean fuel grant" means a grant [~~the taxpayer~~] a claimant, estate, or trust receives
2006 under Title 19, Chapter 1, Part 4, Clean Fuels Conversion Program Act, for reimbursement of a
2007 portion of the incremental cost of the OEM vehicle or the cost of conversion equipment.

2008 (d) "Conversion equipment" means equipment referred to in Subsection (2)(a)(ii) or
2009 (2)(a)(iii).

2010 (e) "Electric-hybrid vehicle" is as defined in 42 U.S.C. Sec. 13435.

2011 (f) "Incremental cost" has the same meaning as in Section 19-1-402.

- 2012 (g) "OEM vehicle" has the same meaning as in Section 19-1-402.
- 2013 (h) "Special mobile equipment":
- 2014 (i) means any mobile equipment or vehicle not designed or used primarily for the
- 2015 transportation of persons or property; and
- 2016 (ii) includes construction or maintenance equipment.
- 2017 (2) (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after
- 2018 January 1, 2001, but beginning on or before December 31, 2010, a ~~taxpayer~~ claimant, estate,
- 2019 or trust may claim a nonrefundable tax credit against tax otherwise due under this chapter in an
- 2020 amount equal to:
- 2021 (i) 50% of the incremental cost of an OEM vehicle registered in Utah minus the
- 2022 amount of any clean fuel grant received, up to a maximum tax credit of \$3,000 per vehicle, if
- 2023 the vehicle:
- 2024 (A) is fueled by propane, natural gas, or electricity;
- 2025 (B) is fueled by other fuel the board determines annually on or before July 1 to be at
- 2026 least as effective in reducing air pollution as fuels under Subsection (2)(a)(i)(A); or
- 2027 (C) meets the clean-fuel vehicle standards in the federal Clean Air Act Amendments of
- 2028 1990, 42 U.S.C. Sec. 7521 et seq.;
- 2029 (ii) 50% of the cost of equipment for conversion, if certified by the board, of a motor
- 2030 vehicle registered in Utah minus the amount of any clean fuel conversion grant received, up to
- 2031 a maximum tax credit of \$2,500 per vehicle, if the motor vehicle:
- 2032 (A) is to be fueled by propane, natural gas, or electricity;
- 2033 (B) is to be fueled by other fuel the board determines annually on or before July 1 to be
- 2034 at least as effective in reducing air pollution as fuels under Subsection (2)(a)(ii)(A); or
- 2035 (C) will meet the federal clean fuel vehicle standards in the federal Clean Air Act
- 2036 Amendments of 1990, 42 U.S.C. Sec. 7521 et seq.; and
- 2037 (iii) 50% of the cost of equipment for conversion, if certified by the board, of a special
- 2038 mobile equipment engine minus the amount of any clean fuel conversion grant received, up to a
- 2039 maximum tax credit of \$1,000 per special mobile equipment engine, if the special mobile
- 2040 equipment is to be fueled by:
- 2041 (A) propane, natural gas, or electricity; or
- 2042 (B) other fuel the board determines annually on or before July 1 to be:

- 2043 (I) at least as effective in reducing air pollution as the fuels under Subsection
2044 (2)(a)(iii)(A); or
- 2045 (II) substantially more effective in reducing air pollution than the fuel for which the
2046 engine was originally designed.
- 2047 (b) Notwithstanding Subsection (2)(a), for taxable years beginning on or after January
2048 1, 2006, a [taxpayer] claimant, estate, or trust may not claim a tax credit under this section with
2049 respect to an electric-hybrid vehicle.
- 2050 (3) ~~[An individual]~~ A claimant, estate, or trust shall provide proof of the purchase of an
2051 item for which a tax credit is allowed under this section by:
- 2052 (a) providing proof to the board in the form the board requires by rule;
- 2053 (b) receiving a written statement from the board acknowledging receipt of the proof;
- 2054 and
- 2055 (c) retaining the written statement described in Subsection (3)(b).
- 2056 (4) Except as provided by Subsection (5), the tax credit under this section is allowed
2057 only:
- 2058 (a) against any Utah tax owed in the taxable year by the [taxpayer] claimant, estate, or
2059 trust;
- 2060 (b) in the taxable year in which the item is purchased for which the tax credit is
2061 claimed; and
- 2062 (c) once per vehicle.
- 2063 (5) If the amount of a tax credit claimed by a [taxpayer] claimant, estate, or trust under
2064 this section exceeds the [taxpayer's] claimant's, estate's, or trust's tax liability under this chapter
2065 for a taxable year, the amount of the tax credit exceeding the tax liability may be carried
2066 forward for a period that does not exceed the next five taxable years.
- 2067 Section 30. Section **59-10-1010**, which is renumbered from Section 59-10-129 is
2068 renumbered and amended to read:
- 2069 ~~[59-10-129]~~. **59-10-1010. Utah low-income housing tax credit.**
- 2070 (1) As used in this section:
- 2071 (a) "Allocation certificate" means:
- 2072 (i) the certificate prescribed by the commission and issued by the Utah Housing
2073 Corporation to each [taxpayer] claimant, estate, or trust that specifies the percentage of the

2074 annual federal low-income housing [tax] credit that each [taxpayer] claimant, estate, or trust
2075 may take as an annual tax credit against [state income] a tax imposed by this chapter; or

2076 (ii) a copy of the allocation certificate that the housing sponsor provides to the
2077 [taxpayer] claimant, estate, or trust.

2078 (b) "Building" means a qualified low-income building as defined in Section 42(c),
2079 Internal Revenue Code.

2080 (c) "Federal low-income housing [tax] credit" means the [tax] low-income housing
2081 credit under Section 42, Internal Revenue Code.

2082 (d) "Housing sponsor" means a corporation in the case of a C corporation, a partnership
2083 in the case of a partnership, a corporation in the case of an S corporation, or a limited liability
2084 company in the case of a limited liability company.

2085 (e) "Qualified allocation plan" means the qualified allocation plan adopted by the Utah
2086 Housing Corporation pursuant to Section 42(m), Internal Revenue Code.

2087 (f) "Special low-income housing tax credit certificate" means a certificate:

2088 (i) prescribed by the commission;

2089 (ii) that a housing sponsor issues to a [taxpayer] claimant, estate, or trust for a taxable
2090 year; and

2091 (iii) that specifies the amount of a tax credit a [taxpayer] claimant, estate, or trust may
2092 claim under this section if the [taxpayer] claimant, estate, or trust meets the requirements of
2093 this section.

2094 [~~(g) "Taxpayer" means a person that is allowed a tax credit in accordance with this
2095 section which is the corporation in the case of a C corporation, the partners in the case of a
2096 partnership, the shareholders in the case of an S corporation, and the members in the case of a
2097 limited liability company.]~~

2098 (2) (a) For taxable years beginning on or after January 1, 1995, there is allowed a
2099 nonrefundable tax credit against taxes otherwise due under this chapter for [taxpayers] a
2100 claimant, estate, or trust issued an allocation certificate.

2101 (b) The tax credit shall be in an amount equal to the greater of the amount of:

2102 (i) federal low-income housing [tax] credit to which the [taxpayer] claimant, estate, or
2103 trust is allowed during that year multiplied by the percentage specified in an allocation
2104 certificate issued by the Utah Housing Corporation; or

2105 (ii) tax credit specified in the special low-income housing tax credit certificate that the
2106 housing sponsor issues to the [taxpayer] claimant, estate, or trust as provided in Subsection
2107 (2)(c).

2108 (c) For purposes of Subsection (2)(b)(ii), the tax credit is equal to the product of:

2109 (i) the total amount of low-income housing tax credit under this section that:

2110 (A) a housing sponsor is allowed for a building; and

2111 (B) all of the [taxpayers] claimants, estates, and trusts may claim with respect to the
2112 building if the [taxpayers] claimants, estates, and trusts meet the requirements of this section;
2113 and

2114 (ii) the percentage of tax credit a [taxpayer] claimant, estate, or trust may claim:

2115 (A) under this section if the [taxpayer] claimant, estate, or trust meets the requirements
2116 of this section; and

2117 (B) as provided in the agreement between the [taxpayer] claimant, estate, or trust and
2118 the housing sponsor.

2119 (d) (i) For the calendar year beginning on January 1, 1995, through the calendar year
2120 beginning on January 1, 2015, the aggregate annual tax credit that the Utah Housing
2121 Corporation may allocate for the credit period described in Section 42(f), Internal Revenue
2122 Code, pursuant to this section and Section 59-7-607 is an amount equal to the product of:

2123 (A) 12.5 cents; and

2124 (B) the population of Utah.

2125 (ii) For purposes of this section, the population of Utah shall be determined in
2126 accordance with Section 146(j), Internal Revenue Code.

2127 (3) (a) By October 1, 1994, the Utah Housing Corporation shall determine criteria and
2128 procedures for allocating the tax credit under this section and Section 59-7-607 and incorporate
2129 the criteria and procedures into the Utah Housing Corporation's qualified allocation plan.

2130 (b) The Utah Housing Corporation shall create the criteria under Subsection (3)(a)
2131 based on:

2132 (i) the number of affordable housing units to be created in Utah for low and moderate
2133 income persons in the residential housing development of which the building is a part;

2134 (ii) the level of area median income being served by the development;

2135 (iii) the need for the tax credit for the economic feasibility of the development; and

2136 (iv) the extended period for which the development commits to remain as affordable
2137 housing.

2138 (4) (a) The following may apply to the Utah Housing Corporation for a tax credit under
2139 this section:

2140 (i) any housing sponsor that is a claimant, estate, or trust if that housing sponsor has
2141 received an allocation of the federal low-income housing [~~tax~~] credit; or

2142 (ii) any applicant for an allocation of the federal low-income housing [~~tax~~] credit if that
2143 applicant is a claimant, estate, or trust.

2144 (b) The Utah Housing Corporation may not require fees for applications of the tax
2145 credit under this section in addition to those fees required for applications for the federal
2146 low-income housing [~~tax~~] credit.

2147 (5) (a) The Utah Housing Corporation shall determine the amount of the tax credit to
2148 allocate to a qualifying housing sponsor in accordance with the qualified allocation plan of the
2149 Utah Housing Corporation.

2150 (b) (i) The Utah Housing Corporation shall allocate the tax credit to housing sponsors
2151 by issuing an allocation certificate to qualifying housing sponsors.

2152 (ii) The allocation certificate under Subsection (5)(b)(i) shall specify the allowed
2153 percentage of the federal low-income housing [~~tax~~] credit as determined by the Utah Housing
2154 Corporation.

2155 (c) The percentage specified in an allocation certificate may not exceed 100% of the
2156 federal low-income housing [~~tax~~] credit.

2157 (6) A housing sponsor shall provide a copy of the allocation certificate to each
2158 [~~taxpayer~~] claimant, estate, or trust that is issued a special low-income housing tax credit
2159 certificate.

2160 (7) (a) A housing sponsor shall provide to the commission a list of:

2161 (i) the [~~taxpayers~~] claimants, estates, and trusts issued a special low-income housing
2162 tax credit certificate; and

2163 (ii) for each [~~taxpayer~~] claimant, estate, or trust described in Subsection (7)(a)(i), the
2164 amount of tax credit listed on the special low-income housing tax credit certificate.

2165 (b) A housing sponsor shall provide the list required by Subsection (7)(a):

2166 (i) to the commission;

2167 (ii) on a form provided by the commission; and
2168 (iii) with the housing sponsor's tax return for each taxable year for which the housing
2169 sponsor issues a special low-income housing tax credit certificate described in this Subsection
2170 (7).

2171 (8) (a) All elections made by the ~~[taxpayer]~~ claimant, estate, or trust pursuant to
2172 Section 42, Internal Revenue Code, shall apply to this section.

2173 (b) (i) If a ~~[taxpayer]~~ claimant, estate, or trust is required to recapture a portion of any
2174 federal low-income housing ~~[tax]~~ credit, the ~~[taxpayer]~~ claimant, estate, or trust shall also be
2175 required to recapture a portion of any state tax credits authorized by this section.

2176 (ii) The state recapture amount shall be equal to the percentage of the state tax credit
2177 that equals the proportion the federal recapture amount bears to the original federal low-income
2178 housing ~~[tax]~~ credit amount subject to recapture.

2179 (9) (a) Any tax credits returned to the Utah Housing Corporation in any year may be
2180 reallocated within the same time period as provided in Section 42, Internal Revenue Code.

2181 (b) Tax credits that are unallocated by the Utah Housing Corporation in any year may
2182 be carried over for allocation in the subsequent year.

2183 (10) (a) Amounts otherwise qualifying for the tax credit, but not allowable because the
2184 tax credit exceeds the tax, may be carried back three years or may be carried forward five years
2185 as a tax credit ~~[against the tax]~~.

2186 (b) Carryover tax credits under Subsection (10)(a) shall be applied against the tax:

2187 (i) before the application of the tax credits earned in the current year; and
2188 (ii) on a first-earned first-used basis.

2189 (11) Any tax credit taken in this section may be subject to an annual audit by the
2190 commission.

2191 (12) The Utah Housing Corporation shall provide an annual report to the Revenue and
2192 Taxation Interim Committee which shall include at least:

2193 (a) the purpose and effectiveness of the tax credits; and
2194 (b) the benefits of the tax credits to the state.

2195 (13) The commission may, in consultation with the Utah Housing Corporation,
2196 promulgate rules to implement this section.

2197 Section 31. Section **59-10-1011**, which is renumbered from Section 59-10-130 is

2198 renumbered and amended to read:

2199 ~~[59-10-130]~~. 59-10-1011. **Tutoring tax credits for disabled dependents.**

2200 (1) For purposes of this section:

2201 (a) "Disabled dependent" means a person who:

2202 (i) is disabled under Section 53A-15-301;

2203 (ii) attends a public or private kindergarten, elementary, or secondary school; and

2204 (iii) is eligible to receive disability program monies under Section 53A-17a-111.

2205 (b) (i) "Tutoring" means educational services:

2206 (A) approved by an individual education plan team;

2207 (B) provided to a disabled dependent; and

2208 (C) that supplement classroom instruction the disabled dependent described in

2209 Subsection (1)(b)(i)(B) receives at a public or private kindergarten, elementary, or secondary
2210 school in the state.

2211 (ii) "Tutoring" does not include:

2212 (A) purchases of instructional books and material; or

2213 (B) payments for attendance at extracurricular activities including sporting events,
2214 musical or dramatic events, speech activities, or driver education.

2215 (2) (a) Except as provided in Subsection (2)(b), for taxable years beginning on or after
2216 January 1, 1996, but beginning on or before December 31, 2009, a [taxpayer] claimant allowed
2217 to claim a disabled dependent as a dependent under this section may claim for each disabled
2218 dependent a nonrefundable tutoring tax credit in an amount equal to 25% of the costs paid by
2219 the [taxpayer] claimant for tutoring the disabled dependent.

2220 (b) The [nonrefundable] tutoring tax credit under Subsection (2)(a) may not exceed
2221 \$100.

2222 (3) The [nonrefundable] tutoring tax credit under Subsection (2) may be claimed by a
2223 [taxpayer] claimant only in the taxable year in which the [taxpayer] claimant pays the tutoring
2224 costs for which the tax credit is claimed.

2225 Section 32. Section **59-10-1012**, which is renumbered from Section 59-10-131 is
2226 renumbered and amended to read:

2227 ~~[59-10-131]~~. 59-10-1012. **Tax credits for research activities conducted in**
2228 **the state -- Carry forward -- Commission to report modification or repeal of federal**

2229 **credits -- Tax Review Commission study.**

2230 (1) (a) For taxable years beginning on or after January 1, 1999, but beginning before
2231 December 31, 2010, a [taxpayer] claimant, estate, or trust meeting the requirements of this
2232 section shall qualify for the following nonrefundable tax credits for increasing research
2233 activities in this state:

2234 (i) a research tax credit of 6% of the [taxpayer's] claimant's, estate's, or trust's qualified
2235 research expenses for the current taxable year that exceed the base amount provided for under
2236 Subsection (4); and

2237 (ii) a tax credit for payments to qualified organizations for basic research as provided
2238 in Section 41(e), Internal Revenue Code of 6% for the current taxable year that exceed the base
2239 amount provided for under Subsection (4).

2240 (b) If a [taxpayer] claimant, estate, or trust qualifying for a tax credit under Subsection
2241 (1)(a) seeks to claim the tax credit, the [taxpayer] claimant, estate, or trust shall:

2242 (i) claim the tax credit or a portion of the tax credit for the taxable year immediately
2243 following the taxable year for which the [taxpayer] claimant, estate, or trust qualifies for the tax
2244 credit;

2245 (ii) carry the tax credit or a portion of the tax credit forward as provided in Subsection
2246 (4)(f); or

2247 (iii) claim a portion of the tax credit and carry forward a portion of the tax credit as
2248 provided in Subsections (1)(b)(i) and (ii).

2249 (c) The tax credits provided for in this section do not include the alternative
2250 incremental credit provided for in Section 41(c)(4), Internal Revenue Code.

2251 (2) For purposes of claiming a tax credit under this section, a unitary group as defined
2252 in Section 59-7-101 is considered to be one [taxpayer] claimant.

2253 (3) Except as specifically provided for in this section:

2254 (a) the tax credits authorized under Subsection (1) shall be calculated as provided in
2255 Section 41, Internal Revenue Code; and

2256 (b) the definitions provided in Section 41, Internal Revenue Code, apply in calculating
2257 the tax credits authorized under Subsection (1).

2258 (4) For purposes of this section:

2259 (a) the base amount shall be calculated as provided in Sections 41(c) and 41(h),

2260 Internal Revenue Code, except that:

2261 (i) the base amount does not include the calculation of the alternative incremental
2262 credit provided for in Section 41(c)(4), Internal Revenue Code;

2263 (ii) a ~~[taxpayer's]~~ claimant's, estate's, or trust's gross receipts include only those gross
2264 receipts attributable to sources within this state as provided in ~~[Chapter 7, Part 3, Allocation~~
2265 ~~and Apportionment of Income -- Utah UDITPA Provisions]~~ Section 59-10-118; and

2266 (iii) notwithstanding Section 41(c), Internal Revenue Code, for purposes of calculating
2267 the base amount, a ~~[taxpayer]~~ claimant, estate, or trust:

2268 (A) may elect to be treated as a start-up company as provided in Section 41(c)(3)(B)
2269 regardless of whether the ~~[taxpayer]~~ claimant, estate, or trust meets the requirements of Section
2270 41(c)(3)(B)(i)(I) or (II); and

2271 (B) may not revoke an election to be treated as a start-up company under Subsection
2272 (4)(a)(iii)(A);

2273 (b) "basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
2274 that the term includes only basic research conducted in this state;

2275 (c) "qualified research" is as defined in Section 41(d), Internal Revenue Code, except
2276 that the term includes only qualified research conducted in this state;

2277 (d) "qualified research expenses" is as defined and calculated in Section 41(b), Internal
2278 Revenue Code, except that the term includes only those expenses incurred in conducting
2279 qualified research in this state;

2280 (e) notwithstanding the provisions of Section 41(h), Internal Revenue Code, the tax
2281 credits provided for in this section shall not terminate if the credits terminate under Section 41,
2282 Internal Revenue Code; and

2283 (f) notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,
2284 governing the carry forward and carry back of federal tax credits, if the amount of a tax credit
2285 claimed by a ~~[taxpayer]~~ claimant, estate, or trust under this section exceeds the ~~[taxpayer's]~~
2286 claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the
2287 tax credit exceeding the liability:

2288 (i) may be carried forward for a period that does not exceed the next 14 taxable years;
2289 and

2290 (ii) may not be carried back to a taxable year preceding the current taxable year.

2291 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2292 commission may make rules for purposes of this section prescribing a certification process for
2293 qualified organizations to ensure that amounts paid to the qualified organizations are for basic
2294 research conducted in this state.

2295 (6) If a federal [tax] credit under Section 41, Internal Revenue Code, is modified or
2296 repealed, the commission shall report the modification or repeal to the Tax Review
2297 Commission within 60 days after the day on which the modification or repeal becomes
2298 effective.

2299 ~~[(7) (a) Except as provided in Subsection (7)(b), the Tax Review Commission shall~~
2300 ~~review the credits provided for in this section on or before the earlier of:]~~

2301 ~~[(i) October 1 of the year after the year in which the commission reports under~~
2302 ~~Subsection (6) a modification or repeal of a federal tax credit under Section 41, Internal~~
2303 ~~Revenue Code; or]~~

2304 ~~[(ii) October 1, 2004.]~~

2305 ~~[(b) Notwithstanding Subsection (7)(a), the Tax Review Commission is not required to~~
2306 ~~review the credits provided for in this section if the only modification to a federal tax credit~~
2307 ~~under Section 41, Internal Revenue Code, is the extension of the termination date provided for~~
2308 ~~in Section 41(h), Internal Revenue Code.]~~

2309 ~~[(c) The Tax Review Commission shall address in a review under this section the:]~~

2310 ~~[(i) cost of the credit;]~~

2311 ~~[(ii) purpose and effectiveness of the credit;]~~

2312 ~~[(iii) whether the credit benefits the state; and]~~

2313 ~~[(iv) whether the credit should be:]~~

2314 ~~[(A) continued;]~~

2315 ~~[(B) modified; or]~~

2316 ~~[(C) repealed.]~~

2317 ~~[(d) If the Tax Review Commission reviews the credits provided for in this section, the~~
2318 ~~Tax Review Commission shall report its findings to the Revenue and Taxation Interim~~
2319 ~~Committee on or before the November interim meeting of the year in which the Tax Review~~
2320 ~~Commission reviews the credits.]~~

2321 Section 33. Section **59-10-1013**, which is renumbered from Section 59-10-132 is

2322 renumbered and amended to read:

2323 ~~[59-10-132]~~. **59-10-1013. Credits for machinery, equipment, or both**
2324 **primarily used for conducting qualified research or basic research -- Carry forward --**
2325 **Commission to report modification or repeal of federal credits -- Tax Review Commission**
2326 **study.**

2327 (1) As used in this section:

2328 (a) "Basic research" is as defined in Section 41(e)(7), Internal Revenue Code, except
2329 that the term includes only basic research conducted in this state.

2330 (b) "Equipment" includes:

2331 (i) computers;

2332 (ii) computer equipment; and

2333 (iii) computer software.

2334 (c) "Purchase price":

2335 (i) includes the cost of installing an item of machinery or equipment; and

2336 (ii) does not include sales or use taxes imposed on an item of machinery or equipment.

2337 (d) "Qualified organization" is as defined in Section 41(e)(6), Internal Revenue Code.

2338 (e) "Qualified research" is as defined in Section 41(d), Internal Revenue Code, except
2339 that the term includes only qualified research conducted in this state.

2340 (2) (a) Except as provided in Subsection (2)(c), for taxable years beginning on or after
2341 January 1, 1999, but beginning before December 31, 2010, a ~~[taxpayer]~~ claimant, estate, or
2342 trust shall qualify for the following nonrefundable tax credits for the taxable year in which the
2343 machinery, equipment, or both, meets the requirements of either Subsection (2)(a)(i) or
2344 (2)(a)(ii):

2345 (i) a tax credit of 6% of the purchase price of either machinery, equipment, or both:

2346 (A) purchased by the ~~[taxpayer]~~ claimant, estate, or trust during the taxable year;

2347 (B) that is not exempt from sales or use taxes; and

2348 (C) that is primarily used to conduct qualified research in this state; and

2349 (ii) a tax credit of 6% of the purchase price paid by the ~~[taxpayer]~~ claimant, estate, or
2350 trust for either machinery, equipment, or both:

2351 (A) purchased by the ~~[taxpayer]~~ claimant, estate, or trust during the taxable year;

2352 (B) that is not exempt from sales or use taxes;

- 2353 (C) that is donated to a qualified organization; and
2354 (D) that is primarily used to conduct basic research in this state.
- 2355 (b) If a [taxpayer] claimant, estate, or trust qualifying for a tax credit under Subsection
2356 (2)(a) seeks to claim the tax credit, the [taxpayer] claimant, estate, or trust shall:
- 2357 (i) claim the tax credit or a portion of the tax credit for the taxable year immediately
2358 following the taxable year for which the [taxpayer] claimant, estate, or trust qualifies for the tax
2359 credit;
- 2360 (ii) carry the tax credit or a portion of the tax credit forward as provided in Subsection
2361 (5);
- 2362 (iii) claim a portion of the tax credit and carry forward a portion of the tax credit as
2363 provided in Subsections (2)(b)(i) and (ii).
- 2364 (c) Notwithstanding Subsection (2)(a), if a [taxpayer] claimant, estate, or trust qualifies
2365 for a tax credit under Subsection (2)(a) for a purchase of machinery, equipment, or both, the
2366 [taxpayer] claimant, estate, or trust may not claim the tax credit or carry the tax credit forward
2367 if the machinery, equipment, or both, is primarily used to conduct qualified research in the state
2368 for a time period that is less than 12 consecutive months.
- 2369 (3) For purposes of claiming a tax credit under this section, a unitary group as defined
2370 in Section 59-7-101 is considered to be one [taxpayer] claimant.
- 2371 (4) Notwithstanding the provisions of Section 41(h), Internal Revenue Code, the tax
2372 credits provided for in this section shall not terminate if the credits terminate under Section 41,
2373 Internal Revenue Code.
- 2374 (5) Notwithstanding the provisions of Sections 39 and 41(g), Internal Revenue Code,
2375 governing the carry forward and carry back of federal tax credits, if the amount of a tax credit
2376 claimed by a [taxpayer] claimant, estate, or trust under this section exceeds a [taxpayer's]
2377 claimant's, estate's, or trust's tax liability under this chapter for a taxable year, the amount of the
2378 tax credit exceeding the liability:
- 2379 (a) may be carried forward for a period that does not exceed the next 14 taxable years;
2380 and
- 2381 (b) may not be carried back to a taxable year preceding the current taxable year.
- 2382 (6) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2383 commission may make rules for purposes of this section prescribing a certification process for

2384 qualified organizations to ensure that either machinery, equipment, or both provided to the
 2385 qualified organization is to be primarily used to conduct basic research in this state.

2386 (7) If a federal [~~tax~~] credit under Section 41, Internal Revenue Code, is modified or
 2387 repealed, the commission shall report the modification or repeal to the Tax Review
 2388 Commission within 60 days after the day on which the modification or repeal becomes
 2389 effective.

2390 [~~(8) (a) Except as provided in Subsection (8)(b), the Tax Review Commission shall~~
 2391 ~~review the credits provided for in this section on or before the earlier of:]~~

2392 [~~(i) October 1 of the year after the year in which the commission reports under~~
 2393 ~~Subsection (7) a modification or repeal of a federal tax credit under Section 41, Internal~~
 2394 ~~Revenue Code; or]~~

2395 [~~(ii) October 1, 2004.]~~

2396 [~~(b) Notwithstanding Subsection (8)(a), the Tax Review Commission is not required to~~
 2397 ~~review the credits provided for in this section if the only modification to a federal tax credit~~
 2398 ~~under Section 41, Internal Revenue Code, is the extension of the termination date provided for~~
 2399 ~~in Section 41(h), Internal Revenue Code.]~~

2400 [~~(c) The Tax Review Commission shall address in a review under this section the:]~~

2401 [~~(i) cost of the credit;]~~

2402 [~~(ii) purpose and effectiveness of the credit;]~~

2403 [~~(iii) whether the credit benefits the state; and]~~

2404 [~~(iv) whether the credit should be:]~~

2405 [~~(A) continued;]~~

2406 [~~(B) modified; or]~~

2407 [~~(C) repealed.]~~

2408 [~~(d) If the Tax Review Commission reviews the credits provided for in this section, the~~
 2409 ~~Tax Review Commission shall report its findings to the Revenue and Taxation Interim~~
 2410 ~~Committee on or before the November interim meeting of the year in which the Tax Review~~
 2411 ~~Commission reviews the credits.]~~

2412 Section 34. Section **59-10-1014**, which is renumbered from Section 59-10-134 is
 2413 renumbered and amended to read:

2414 [~~59-10-134~~]. **59-10-1014**. **Renewable energy systems tax credit --**

2415 **Definitions -- Limitations -- State tax credit in addition to allowable federal credits --**
2416 **Certification -- Rulemaking authority -- Reimbursement of Uniform School Fund.**

2417 (1) As used in this part:

2418 (a) "Active solar system":

2419 (i) means a system of equipment capable of collecting and converting incident solar
2420 radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy
2421 by a separate apparatus to storage or to the point of use; and

2422 (ii) includes water heating, space heating or cooling, and electrical or mechanical
2423 energy generation.

2424 (b) "Biomass system" means any system of apparatus and equipment capable of
2425 converting organic plant, wood, or waste products into electrical and thermal energy and
2426 transferring these forms of energy by a separate apparatus to the point of use or storage.

2427 (c) "Business entity" means any [~~sole proprietorship, estate, trust, partnership,~~
2428 ~~association, corporation, cooperative, or other~~] entity under which business is conducted or
2429 transacted.

2430 (d) "Commercial energy system" means any active solar, passive solar, wind,
2431 hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial
2432 enterprise.

2433 (e) "Commercial enterprise" means a business entity whose purpose is to produce
2434 electrical, mechanical, or thermal energy for sale from a commercial energy system.

2435 (f) (i) "Commercial unit" means any building or structure which a business entity uses
2436 to transact its business, except as provided in Subsection (1)(f)(ii); and

2437 (ii) (A) in the case of an active solar system used for agricultural water pumping or a
2438 wind system, each individual energy generating device shall be a commercial unit; and

2439 (B) if an energy system is the building or structure which a business entity uses to
2440 transact its business, a commercial unit is the complete energy system itself.

2441 (g) "Hydroenergy system" means a system of apparatus and equipment capable of
2442 intercepting and converting kinetic water energy into electrical or mechanical energy and
2443 transferring this form of energy by separate apparatus to the point of use or storage.

2444 [~~(h) "Individual taxpayer" means any person who is a taxpayer as defined in Section~~
2445 ~~59-10-103 and an individual as defined in Section 59-10-103.;~~]

2446 ~~[(f)]~~ (h) "Passive solar system":

2447 (i) means a direct thermal system which utilizes the structure of a building and its
2448 operable components to provide for collection, storage, and distribution of heating or cooling
2449 during the appropriate times of the year by utilizing the climate resources available at the site;
2450 and

2451 (ii) includes those portions and components of a building that are expressly designed
2452 and required for the collection, storage, and distribution of solar energy.

2453 ~~[(j)]~~ (i) "Residential energy system" means any active solar, passive solar, wind, or
2454 hydroenergy system used to supply energy to or for any residential unit.

2455 ~~[(k)]~~ (j) "Residential unit" means any house, condominium, apartment, or similar
2456 dwelling unit which serves as a dwelling for a person, group of persons, or a family but does
2457 not include property subject to a fee under:

2458 (i) Section 59-2-404;

2459 (ii) Section 59-2-405;

2460 (iii) Section 59-2-405.1;

2461 (iv) Section 59-2-405.2; or

2462 (v) Section 59-2-405.3.

2463 ~~[(l)]~~ (k) "Utah Geological Survey" means the Utah Geological Survey established in
2464 Section 63-73-5.

2465 ~~[(m)]~~ (l) "Wind system" means a system of apparatus and equipment capable of
2466 intercepting and converting wind energy into mechanical or electrical energy and transferring
2467 these forms of energy by a separate apparatus to the point of use or storage.

2468 (2) For taxable years beginning on or after January 1, 2001, but beginning on or before
2469 December 31, 2006, ~~[any individual taxpayer]~~ a claimant, estate, or trust may claim a
2470 nonrefundable tax credit as provided in this section if:

2471 (a) ~~[the individual taxpayer]~~ a claimant, estate, or trust that is not a business entity
2472 purchases and completes or participates in the financing of a residential energy system to
2473 supply all or part of the energy for the ~~[individual taxpayer's]~~ claimant's, estate's or trust's
2474 residential unit in the state; or

2475 (b) (i) a claimant, estate, or trust that is a business entity sells a residential unit to ~~[an~~
2476 ~~individual taxpayer]~~ another claimant, estate, or trust that is not a business entity prior to

2477 making a claim for a tax credit under Subsection (6) or Section 59-7-614; and

2478 (ii) the claimant, estate, or trust that is a business entity assigns its right to the tax credit
2479 to the ~~[individual taxpayer]~~ claimant, estate, or trust that is not a business entity as provided in
2480 Subsection (6)(c) or Subsection 59-7-614(2)(a)(iii).

2481 (3) (a) ~~[An individual taxpayer meeting the requirements of]~~ The tax credit described
2482 in Subsection (2) is ~~[entitled to a tax credit]~~ equal to 25% of the costs of the energy system,
2483 including installation costs, against any income tax liability of the ~~[individual taxpayer]~~
2484 claimant, estate, or trust under this chapter for the taxable year in which the residential energy
2485 system is completed and placed in service.

2486 (b) The total amount of the tax credit under this section may not exceed \$2,000 per
2487 residential unit.

2488 (c) The tax credit under this section is allowed for any residential energy system
2489 completed and placed in service on or after January 1, 2001, but on or before December 31,
2490 2006.

2491 (4) (a) The tax credit provided for in this section shall be claimed in the return for the
2492 taxable year in which the energy system is completed and placed in service.

2493 (b) Additional residential energy systems or parts of residential energy systems may be
2494 similarly claimed in returns for subsequent taxable years as long as the total amount claimed
2495 does not exceed \$2,000 per residential unit.

2496 (c) If the amount of the tax credit under this section exceeds the income tax liability of
2497 the ~~[individual taxpayer]~~ claimant, estate, or trust claiming the tax credit under this section for
2498 that taxable year, then the amount not used may be carried over for a period which does not
2499 exceed the next four taxable years.

2500 (5) (a) ~~[Individual taxpayers who lease]~~ A claimant, estate, or trust that is not a
2501 business entity that leases a residential energy system installed on a residential unit ~~[are]~~ is
2502 eligible for the residential energy tax credits if ~~[the lessee can confirm]~~ that claimant, estate, or
2503 trust confirms that the lessor irrevocably elects not to claim the ~~[state]~~ tax credit.

2504 (b) Only the principal recovery portion of the lease payments, which is the cost
2505 incurred by the ~~[taxpayer]~~ claimant, estate, or trust in acquiring the residential energy system
2506 excluding interest charges and maintenance expenses, is eligible for the tax credits.

2507 (c) ~~[Individual taxpayers who lease residential energy systems are eligible to]~~ A

2508 claimant, estate, or trust described in this Subsection (5) may use the tax credits for a period
2509 [~~no greater than~~] that does not exceed seven years from the initiation of the lease.

2510 (6) (a) A claimant, estate, or trust that is a business entity that purchases and completes
2511 or participates in the financing of a residential energy system to supply all or part of the energy
2512 required for a residential unit owned or used by the claimant, estate, or trust that is a business
2513 entity and situated in Utah is entitled to a nonrefundable tax credit as provided in this
2514 Subsection (6).

2515 (b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or
2516 before December 31, 2006, a claimant, estate, or trust that is a business entity is entitled to a
2517 tax credit equal to 25% of the costs of a residential energy system installed with respect to each
2518 residential unit it owns or uses, including installation costs, against any tax due under this
2519 chapter for the taxable year in which the energy system is completed and placed in service.

2520 (ii) The total amount of the tax credit under this Subsection (6) may not exceed \$2,000
2521 per residential unit.

2522 (iii) The tax credit under this Subsection (6) is allowed for any residential energy
2523 system completed and placed in service on or after January 1, 2001, but on or before December
2524 31, 2006.

2525 (c) If a claimant, estate, or trust that is a business entity sells a residential unit to [~~an~~
2526 ~~individual taxpayer~~] a claimant, estate, or trust that is not a business entity prior to making a
2527 claim for the tax credit under this Subsection (6), the claimant, estate, or trust that is a business
2528 entity may:

2529 (i) assign its right to this tax credit to the [~~individual taxpayer~~] claimant, estate, or trust
2530 that is not a business entity; and

2531 (ii) if the claimant, estate, or trust that is a business entity assigns its right to the tax
2532 credit to [~~an individual taxpayer~~] a claimant, estate, or trust that is not a business entity under
2533 Subsection (6)(c)(i), the [~~individual taxpayer~~] claimant, estate, or trust that is not a business
2534 entity may claim the tax credit as if [~~the individual taxpayer~~] that claimant, estate, or trust that
2535 is not a business entity had completed or participated in the costs of the residential energy
2536 system under this section.

2537 (7) (a) A claimant, estate, or trust that is a business entity that purchases or participates
2538 in the financing of a commercial energy system is entitled to a nonrefundable tax credit as

2539 provided in this Subsection (7) if:

2540 (i) the commercial energy system supplies all or part of the energy required by
2541 commercial units owned or used by the claimant, estate, or trust that is a business entity; or

2542 (ii) the claimant, estate, or trust that is a business entity sells all or part of the energy
2543 produced by the commercial energy system as a commercial enterprise.

2544 (b) (i) A claimant, estate, or trust that is a business entity is entitled to a tax credit equal
2545 to 10% of the costs of any commercial energy system installed, including installation costs,
2546 against any tax due under this chapter for the taxable year in which the commercial energy
2547 system is completed and placed in service.

2548 (ii) The total amount of the tax credit under this Subsection (7) may not exceed
2549 \$50,000 per commercial unit.

2550 (iii) The tax credit under this Subsection (7) is allowed for any commercial energy
2551 system completed and placed in service on or after January 1, 2001, but on or before December
2552 31, 2006.

2553 (c) A claimant, estate, or trust that is a business entity that leases a commercial energy
2554 system installed on a commercial unit is eligible for the tax credit under this Subsection (7) if
2555 the ~~[lessee can confirm]~~ claimant, estate, or trust confirms that the lessor irrevocably elects not
2556 to claim the tax credit.

2557 (d) Only the principal recovery portion of the lease payments, which is the cost
2558 incurred by a claimant, estate, or trust that is not a business entity in acquiring a commercial
2559 energy system, excluding interest charges and maintenance expenses, is eligible for the tax
2560 credit under this Subsection (7).

2561 (e) A claimant, estate, or trust that is a business entity that leases a commercial energy
2562 system is eligible to use the tax credit under this Subsection (7) for a period ~~[no greater than]~~
2563 that does not exceed seven years from the initiation of the lease.

2564 (8) (a) A tax credit under this section may be claimed for the taxable year in which the
2565 energy system is completed and placed in service.

2566 (b) Additional energy systems or parts of energy systems may be claimed for
2567 subsequent years.

2568 (c) If the amount of a tax credit under this section exceeds ~~[a business entity's]~~ the tax
2569 liability of the claimant, estate, or trust claiming the tax credit under this ~~[chapter]~~ section for a

2570 taxable year, the amount of the tax credit exceeding the tax liability may be carried over for a
2571 period which does not exceed the next four taxable years.

2572 (9) The tax credits provided for under this section are in addition to any tax credits
2573 provided under the laws or rules and regulations of the United States.

2574 (10) (a) The Utah Geological Survey may set standards for residential and commercial
2575 energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of
2576 the systems to ensure that the systems eligible for the tax credit use the state's renewable and
2577 nonrenewable energy resources in an appropriate and economic manner.

2578 (b) A tax credit may not be taken under this section until the Utah Geological Survey
2579 has certified that the energy system has been completely installed and is a viable system for
2580 saving or production of energy from renewable resources.

2581 (11) The Utah Geological Survey and the commission are authorized to promulgate
2582 rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, which
2583 are necessary to implement this section.

2584 (12) The Uniform School Fund shall be reimbursed by transfers from the General Fund
2585 for any tax credits taken under this section.

2586 Section 35. Section **59-10-1015**, which is renumbered from Section 59-10-134.2 is
2587 renumbered and amended to read:

2588 **~~[59-10-134.2].~~ 59-10-1015. Definitions -- Tax credit for live organ donation**
2589 **expenses -- Rulemaking authority.**

2590 (1) As used in this section:

2591 (a) "human organ" means:

2592 (i) human bone marrow; or

2593 (ii) any part of a human:

2594 (A) intestine;

2595 (B) kidney;

2596 (C) liver;

2597 (D) lung; or

2598 (E) pancreas;

2599 (b) "live organ donation" means that an individual who is living donates one or more of
2600 that individual's human organs:

2601 (i) to another human; and
2602 (ii) to be transplanted:
2603 (A) using a medical procedure; and
2604 (B) to the body of the other human; and
2605 (c) (i) "live organ donation expenses" means the total amount of expenses:
2606 (A) incurred by a [taxpayer] claimant; and
2607 (B) that:
2608 (I) are not reimbursed to that [taxpayer] claimant by any person;
2609 (II) are directly related to a live organ donation by:
2610 (Aa) the [taxpayer] claimant; or
2611 (Bb) another individual that the [taxpayer] claimant is allowed to claim as a dependent
2612 in accordance with Section 151, Internal Revenue Code; and
2613 (III) are for:
2614 (Aa) travel;
2615 (Bb) lodging; or
2616 (Cc) a lost wage; and
2617 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2618 commission may by rule define "lost wage."
2619 (2) For taxable years beginning on or after January 1, 2005, a [taxpayer] claimant may
2620 claim a nonrefundable tax credit:
2621 (a) as provided in this section;
2622 (b) against taxes otherwise due under this chapter;
2623 (c) for live organ donation expenses incurred during the taxable year for which the live
2624 organ donation occurs; and
2625 (d) in an amount equal to the lesser of:
2626 (i) the actual amount of the live organ donation expenses; or
2627 (ii) \$10,000.
2628 (3) If the amount of a tax credit under this section exceeds a [taxpayer's] claimant's tax
2629 liability under this chapter for a taxable year, the amount of the tax credit that exceeds the
2630 [taxpayer's] claimant's tax liability may be carried forward for a period that does not exceed the
2631 next five taxable years.

2632 Section 36. Section **59-10-1016**, which is renumbered from Section 59-10-135 is
2633 renumbered and amended to read:

2634 ~~[59-10-135].~~ **59-10-1016. Removal of tax credit from tax return and**
2635 **prohibition on claiming or carrying forward a tax credit -- Conditions for removal and**
2636 **prohibition on claiming or carrying forward a tax credit -- Commission reporting**
2637 **requirements.**

2638 (1) As used in this section ~~[(a) "Tax credit" means a nonrefundable tax credit listed on~~
2639 ~~a tax return. (b) "Tax", "tax return" means [an individual income] a tax return filed in~~
2640 accordance with this chapter.

2641 (2) Beginning two taxable years after the requirements of Subsection (3) are met:

2642 (a) the commission shall remove a tax credit from each tax return on which the tax
2643 credit appears; and

2644 (b) a ~~[person] claimant, estate, or trust~~ filing a tax return may not claim or carry
2645 forward the tax credit.

2646 (3) The commission shall remove a tax credit from a tax return and a ~~[person]~~
2647 ~~claimant, estate, or trust~~ filing a tax return may not claim or carry forward a tax credit as
2648 provided in Subsection (2) if:

2649 (a) the total amount of the tax credit claimed or carried forward by all ~~[persons]~~
2650 ~~claimants, estates, or trusts~~ filing tax returns is less than \$10,000 per year for three consecutive
2651 taxable years beginning on or after January 1, 2002; and

2652 (b) less than ten ~~[persons] claimants, estates, and trusts~~ per year for the three
2653 consecutive taxable years described in Subsection (3)(a), file a tax return claiming or carrying
2654 forward the tax credit.

2655 (4) The commission shall, on or before the November interim meeting of the year after
2656 the taxable year in which the requirements of Subsection (3) are met:

2657 (a) report to the Revenue and Taxation Interim Committee that in accordance with this
2658 section:

2659 (i) the commission is required to remove a tax credit from each tax return on which the
2660 tax credit appears; and

2661 (ii) a ~~[person] claimant, estate, or trust~~ filing a tax return may not claim or carry
2662 forward the tax credit; and

2663 (b) notify each state agency required by statute to assist in the administration of the tax
2664 credit that in accordance with this section:

2665 (i) the commission is required to remove a tax credit from each tax return on which the
2666 tax credit appears; and

2667 (ii) a ~~[person]~~ claimant, estate, or trust filing a tax return may not claim or carry
2668 forward the tax credit.

2669 Section 37. Section **59-10-1101** is enacted to read:

2670 **Part 11. Refundable Tax Credit Act**

2671 **59-10-1101. Title.**

2672 This part is known as the "Refundable Tax Credit Act."

2673 Section 38. Section **59-10-1102** is enacted to read:

2674 **59-10-1102. Definitions.**

2675 As used in this part:

2676 (1) (a) Except as provided in Subsection (1)(b) or Subsection 59-10-1103(1)(a),
2677 "claimant" means a resident or nonresident person.

2678 (b) "Claimant" does not include an estate or trust.

2679 (2) Except as provided in Subsection 59-10-1103(1)(a), "estate" means a nonresident
2680 estate or a resident estate.

2681 (3) "Refundable tax credit" or "tax credit" means a tax credit that a claimant, estate, or
2682 trust may claim:

2683 (a) as provided by statute; and

2684 (b) regardless of whether the claimant, estate, or trust has a tax liability under this
2685 chapter for a taxable year.

2686 (4) Except as provided in Subsection 59-10-1103(1)(a), "trust" means a nonresident
2687 trust or a resident trust.

2688 Section 39. Section **59-10-1103**, which is renumbered from Section 59-10-108.2 is
2689 renumbered and amended to read:

2690 ~~**[59-10-108.2].**~~ **59-10-1103. Tax credit for nonresident shareholders of S**
2691 **corporations.**

2692 (1) (a) A nonresident shareholder of an S corporation ~~[who is an individual]~~ may claim
2693 a refundable tax credit against the tax otherwise due under this chapter[-] if that nonresident

2694 shareholder is a:

2695 (i) nonresident claimant;

2696 (ii) nonresident estate; or

2697 (iii) nonresident trust.

2698 (b) The tax credit described in Subsection (1)(a) is equal to the amount paid or
2699 withheld by the S corporation on behalf of the [~~individual~~] nonresident shareholder described
2700 in Subsection (1)(a) in accordance with Section 59-7-703.

2701 (2) A nonresident shareholder [~~of an S corporation who is an individual and who~~]
2702 described in Subsection (1)(a) that has no other Utah source income may elect:

2703 (a) not to claim the tax credit provided in Subsection (1); and

2704 (b) not to file a [~~Utah individual income~~] tax return under this chapter for the taxable
2705 year.

2706 (3) If a nonresident shareholder described in Subsection (1)(a) may claim [~~credits~~] a
2707 nonrefundable tax credit as defined in Section 59-10-1002 or a refundable tax credit other than
2708 the tax credit described in Subsection (1), the nonresident shareholder described in Subsection
2709 (1)(a) shall file [~~an individual income~~] a tax return under this chapter to claim those
2710 nonrefundable tax credits or refundable tax credits.

2711 Section 40. Section **59-10-1104**, which is renumbered from Section 59-10-133 is
2712 renumbered and amended to read:

2713 **[59-10-133].** **59-10-1104. Tax credit for adoption of a child who has a**
2714 **special need.**

2715 (1) As used in this section, a "child who has a special need" means a child who meets
2716 at least one of the following conditions:

2717 (a) the child is five years of age or older;

2718 (b) the child:

2719 (i) is under the age of 18; and

2720 (ii) has a physical, emotional, or mental disability; or

2721 (c) the child is a member of a sibling group placed together for adoption.

2722 (2) For taxable years beginning on or after January 1, 2005, a [~~taxpayer~~] claimant who
2723 adopts in this state a child who has a special need may claim on the [~~taxpayer's~~] claimant's
2724 individual income tax return for the taxable year a refundable tax credit of \$1,000 against taxes

2725 otherwise due under this chapter for:

2726 (a) adoptions for which a court issues an order granting the adoption on or after
2727 January 1, 2005;

2728 (b) the taxable year during which a court issues an order granting the adoption; and

2729 (c) each child who has a special need whom the [~~taxpayer~~] claimant adopts.

2730 (3) The credit provided for in this section may not be carried forward or carried back.

2731 (4) Nothing in this section shall affect the ability of any [~~taxpayer~~] claimant who

2732 adopts a child who has a special need to receive adoption assistance under Section 62A-4a-907.

2733 Section 41. Section **59-10-1105**, which is renumbered from Section 59-10-134.1 is
2734 renumbered and amended to read:

2735 ~~[59-10-134.1].~~ **59-10-1105. Tax credit for hand tools used in farming**

2736 **operations -- Procedures for refund -- Transfers from General Fund to Uniform School**

2737 **Fund -- Rulemaking authority.**

2738 (1) For taxable years beginning on or after January 1, 2004, a [~~resident or nonresident~~
2739 ~~individual~~] claimant, estate, or trust may claim a refundable tax credit:

2740 (a) as provided in this section;

2741 (b) against taxes otherwise due under this chapter; and

2742 (c) in an amount equal to the amount of tax the [~~resident or nonresident individual~~]
2743 claimant, estate, or trust pays:

2744 (i) on a purchase of a hand tool:

2745 (A) if the purchase is made on or after July 1, 2004;

2746 (B) if the hand tool is used or consumed primarily and directly in a farming operation
2747 in the state; and

2748 (C) if the unit purchase price of the hand tool is more than \$250; and

2749 (ii) under Chapter 12, Sales and Use Tax Act, on the purchase described in Subsection
2750 (1)(c)(i).

2751 (2) A [~~resident or nonresident individual~~] claimant, estate, or trust:

2752 (a) shall retain the following to establish the amount of tax the [~~resident or nonresident~~
2753 ~~individual~~] claimant, estate, or trust paid under Chapter 12, Sales and Use Tax Act, on the
2754 purchase described in Subsection (1)(c)(i):

2755 (i) a receipt;

2756 (ii) an invoice; or
 2757 (iii) a document similar to a document described in Subsection (2)(a)(i) or (ii); and
 2758 (b) may not carry forward or carry back a tax credit under this section.

2759 (3) (a) In accordance with any rules prescribed by the commission under Subsection
 2760 (3)(b), the commission shall:

2761 (i) make a refund to a [~~resident or nonresident individual who~~] claimant, estate, or trust
 2762 that claims a tax credit under this section if the amount of the tax credit exceeds the [~~resident or~~
 2763 ~~nonresident individual's~~] claimant's, estate's, or trust's tax liability under this chapter; and

2764 (ii) transfer at least annually from the General Fund into the Uniform School Fund an
 2765 amount equal to the amount of tax credit claimed under this section.

2766 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 2767 commission may make rules providing procedures for making:

2768 (i) a refund to a [~~resident or nonresident individual~~] claimant, estate, or trust as
 2769 required by Subsection (3)(a)(i); or

2770 (ii) transfers from the General Fund into the Uniform School Fund as required by
 2771 Subsection (3)(a)(ii).

2772 Section 42. Section **59-13-202** is amended to read:

2773 **59-13-202. Refund of tax for agricultural uses on income and corporate franchise**
 2774 **tax returns -- Application for permit for refund -- Division of Finance to pay claims --**
 2775 **Rules permitted to enforce part -- Penalties.**

2776 (1) As used in this section:

2777 (a) "claimant" is as defined in Section 59-10-1102;
 2778 (b) "estate" is as defined in Section 59-10-1102;
 2779 (c) "refundable tax credit" is as defined in Section 59-10-1102; and
 2780 (d) "trust" is as defined in Section 59-10-1102.

2781 [(+) (2) Any [~~person who~~] claimant, estate, or trust that purchases and uses any motor
 2782 fuel within the state for the purpose of operating or propelling stationary farm engines and
 2783 self-propelled farm machinery used for nonhighway agricultural uses, and [~~who~~] that has paid
 2784 the tax on the motor fuel as provided by this part, is entitled to a refund of the tax subject to the
 2785 conditions and limitations provided under this part.

2786 [(2)] (3) (a) [~~Every person~~] A claimant, estate, or trust desiring a nonhighway

2787 agricultural use refund under this part shall claim the refund as a refundable tax credit on the
 2788 ~~[state income]~~ tax return ~~[or corporate franchise tax return]~~ the claimant, estate, or trust files
 2789 under:

2790 (i) Chapter 7, Corporate Franchise and Income Taxes; or

2791 (ii) Chapter 10, Individual Income Tax Act.

2792 (b) A [person] claimant, estate, or trust not subject to filing a [Utah income tax return
 2793 or corporate franchise] tax return described in Subsection (3)(a) shall obtain a permit and file
 2794 claims on a calendar year basis.

2795 (c) Any [person] claimant, estate, or trust claiming a refundable [motor fuel] tax credit
 2796 under this section is required to furnish any or all of the information outlined in this section
 2797 upon request of the commission. ~~[Credit]~~

2798 (d) A refundable tax credit under this section is allowed only on purchases on which
 2799 tax is paid during the taxable year covered by the tax return.

2800 ~~[(3)]~~ (4) In order to obtain a permit for a refund of motor fuel tax paid, an application
 2801 shall be filed containing:

2802 (a) the name of ~~[applicant]~~ the claimant, estate, or trust;

2803 (b) the ~~[applicant's]~~ claimant's, estate's, or trust's address;

2804 (c) location and number of acres owned and operated, location and number of acres
 2805 rented and operated, the latter of which shall be verified by a signed statement from the legal
 2806 owner;

2807 (d) number of acres planted to each crop, type of soil, and whether irrigated or dry; and

2808 (e) make, size, type of fuel used, and power rating of each piece of equipment using
 2809 fuel. If the ~~[applicant]~~ claimant, estate, or trust is an operator of self-propelled or tractor-pulled
 2810 farm machinery with which the ~~[applicant]~~ claimant, estate, or trust works for hire doing
 2811 custom jobs for other farmers, the application shall include information the commission
 2812 requires and shall all be contained in, and be considered part of, the original application. The
 2813 ~~[applicant]~~ claimant, estate, or trust shall also file with the application a certificate from the
 2814 county assessor showing each piece of equipment using fuel. This original application and all
 2815 information contained in it constitutes a permanent file with the commission in the name of the
 2816 ~~[applicant]~~ claimant, estate, or trust.

2817 ~~[(4)]~~ (5) Any ~~[person]~~ claimant, estate, or trust claiming the right to a refund of motor

2818 fuel tax paid shall file a claim with the commission by April 15 of each year for the refund for
2819 the previous calendar year. The claim shall state the name and address of the claimant, estate,
2820 or trust, the number of gallons of motor fuel purchased for nonhighway agricultural uses, and
2821 the amount paid for the motor fuel. The [~~applicant~~] claimant, estate, or trust shall retain the
2822 original invoice to support the claim. No more than one claim for a tax refund may be filed
2823 annually by each user of motor fuel purchased for nonhighway agricultural uses.

2824 [~~(5)~~] (6) Upon commission approval of the claim for a refund, the Division of Finance
2825 shall pay the amount found due to the claimant, estate, or trust. The total amount of claims for
2826 refunds shall be paid from motor fuel taxes.

2827 [~~(6)~~] (7) The commission may promulgate rules to enforce this part, and may refuse to
2828 accept as evidence of purchase or payment any instruments which show alteration or which fail
2829 to indicate the quantity of the purchase, the price of the motor fuel, a statement that it is
2830 purchased for purposes other than transportation, and the date of purchase and delivery. If the
2831 commission is not satisfied with the evidence submitted in connection with the claim, it may
2832 reject the claim or require additional evidence.

2833 [~~(7)~~] (8) Any [~~person~~] claimant, estate, or trust aggrieved by the decision of the
2834 commission with respect to a refundable tax credit or refund may file a request for agency
2835 action, requesting a hearing before the commission.

2836 [~~(8)~~] (9) Any [~~person who~~] claimant, estate, or trust that makes any false claim, report,
2837 or statement, [~~either~~] as claimant, estate, trust, agent, or creditor, with intent to defraud or
2838 secure a refund to which the claimant, estate, or trust is not entitled, is subject to the criminal
2839 penalties provided under Section 59-1-401, and the commission shall initiate the filing of a
2840 complaint for alleged violations of this part. In addition to these penalties, the [~~person~~]
2841 claimant, estate, or trust may not receive any refund as a claimant, estate, or trust or as a
2842 creditor of a claimant, estate, or trust for refund for a period of five years.

2843 [~~(9)~~] (10) Refunds to which [~~taxpayers are~~] a claimant, estate, or trust is entitled under
2844 this part shall be paid from the Transportation Fund.

2845 Section 43. Section **62A-4a-607** is amended to read:

2846 **62A-4a-607. Promotion of adoption -- Agency notice to potential adoptive**
2847 **parents.**

2848 (1) (a) The division and all child placing agencies licensed under this part shall

2849 promote adoption when that is a possible and appropriate alternative for a child. Specifically,
2850 in accordance with Section 62A-4a-205.6, the division shall actively promote the adoption of
2851 all children in its custody who have a final plan for termination of parental rights pursuant to
2852 Section 78-3a-312 or a primary permanency goal of adoption.

2853 (b) Beginning May 1, 2000, the division may not place a child for adoption, either
2854 temporarily or permanently, with any individual or individuals who do not qualify for adoptive
2855 placement pursuant to the requirements of Sections 78-30-1, 78-30-1.5, and 78-30-9.

2856 (2) The division shall obtain or conduct research of prior adoptive families to
2857 determine what families may do to be successful with their adoptive children and shall make
2858 this research available to potential adoptive parents.

2859 (3) (a) A child placing agency licensed under this part shall inform each potential
2860 adoptive parent with whom it is working that:

2861 (i) children in the custody of the state are available for adoption;

2862 (ii) Medicaid coverage for medical, dental, and mental health services may be available
2863 for these children;

2864 (iii) tax benefits, including the tax credit provided for in Section [~~59-10-133~~]
2865 59-10-1104, and financial assistance may be available to defray the costs of adopting these
2866 children;

2867 (iv) training and ongoing support may be available to the adoptive parents of these
2868 children; and

2869 (v) information about individual children may be obtained by contacting the division's
2870 offices or its Internet site as explained by the child placing agency.

2871 (b) A child placing agency shall:

2872 (i) provide the notice required by Subsection (3)(a) at the earliest possible opportunity;
2873 and

2874 (ii) simultaneously distribute a copy of the pamphlet prepared by the division in
2875 accordance with Subsection (3)(d).

2876 (c) As a condition of licensure, the child placing agency shall certify to the Office of
2877 Licensing at the time of license renewal that it has complied with the provisions of this section.

2878 (d) Before July 1, 2000, the division shall:

2879 (i) prepare a pamphlet that explains the information that is required by Subsection

2880 (3)(a); and

2881 (ii) regularly distribute copies of the pamphlet described in Subsection (3)(d)(i) to child
2882 placing agencies.

2883 (e) The division shall respond to any inquiry made as a result of the notice provided in
2884 Subsection (3)(a).

2885 Section 44. Section **63-38f-402** is amended to read:

2886 **63-38f-402. Definitions.**

2887 As used in this part:

2888 (1) "Business entity" means an entity:

2889 (a) including a claimant, estate, or trust; and

2890 (b) under which business is conducted or transacted.

2891 (2) "Claimant" means a resident or nonresident person that has:

2892 (a) Utah taxable income as defined in Section 59-7-101; or

2893 (b) state taxable income under Title 59, Chapter 10, Part 1, Determination and

2894 Reporting of Tax Liability or Information.

2895 [~~(1)~~] (3) "County applicant" means the governing authority of a county that meets the
2896 requirements for designation as an enterprise zone under Section 63-38f-404.

2897 (4) "Estate" is as defined in Section 59-10-1002.

2898 [~~(2)~~] (5) "Municipal applicant" means the governing authority of a city or town that
2899 meets the requirements for designation as an enterprise zone under Section 63-38f-404.

2900 (6) "Nonrefundable tax credit" or "tax credit" is as defined in Section 59-10-1002.

2901 [~~(3)~~] (7) "Tax incentives" or "tax benefits" means the nonrefundable tax credits
2902 [~~available under~~] described in Section 63-38f-413.

2903 (8) "Trust" is as defined in Section 59-10-1002.

2904 Section 45. Section **63-38f-412** is amended to read:

2905 **63-38f-412. Businesses qualifying for tax incentives.**

2906 The tax incentives described in this part are available only to a business [~~firm~~] entity for
2907 which at least 51% of the employees employed at facilities of the [~~firm~~] business entity located
2908 in the enterprise zone are individuals who, at the time of employment, reside in the county in
2909 which the enterprise zone is located.

2910 Section 46. Section **63-38f-413** is amended to read:

2911 **63-38f-413. State tax credits.**

2912 (1) Subject to the limitations of Subsections (2) through (4), the following [state]
2913 nonrefundable tax credits against [~~individual income taxes or corporate franchise and income~~
2914 ~~taxes~~] a tax under Chapter 7, Corporate Franchise and Income Taxes, or Chapter 10, Individual
2915 Income Tax Act, are applicable in an enterprise zone:

2916 (a) a tax credit of \$750 may be claimed by a business entity for each new full-time
2917 position filled for not less than six months during a given tax year;

2918 (b) an additional \$500 tax credit may be claimed if the new position pays at least 125%
2919 of:

2920 (i) the county average monthly nonagricultural payroll wage for the respective industry
2921 as determined by the Department of Workforce Services; or

2922 (ii) if the county average monthly nonagricultural payroll wage is not available for the
2923 respective industry, the total average monthly nonagricultural payroll wage in the respective
2924 county where the enterprise zone is located;

2925 (c) an additional tax credit of \$750 may be claimed if the new position is in a business
2926 entity that adds value to agricultural commodities through manufacturing or processing;

2927 (d) an additional tax credit of \$200 may be claimed for two consecutive years for each
2928 new employee who is insured under an employer-sponsored health insurance program if the
2929 employer pays at least 50% of the premium cost for two consecutive years;

2930 (e) a tax credit of 50% of the value of a cash contribution to a private nonprofit
2931 corporation, except that the credit claimed may not exceed \$100,000:

2932 (i) that is exempt from federal income taxation under Section 501(c)(3), Internal
2933 Revenue Code;

2934 (ii) whose primary purpose is community and economic development; and

2935 (iii) that has been accredited by the board of directors of the Utah Rural Development
2936 Council;

2937 (f) a tax credit of 25% of the first \$200,000 spent on rehabilitating a building in the
2938 enterprise zone that has been vacant for two years or more; and

2939 (g) an annual investment tax credit of 10% of the first \$250,000 in investment, and 5%
2940 of the next \$1,000,000 qualifying investment in plant, equipment, or other depreciable
2941 property.

2942 (2) (a) Subject to the limitations of Subsection (2)(b), a business entity claiming a tax
2943 credit under Subsections (1)(a) through (d) may claim [a] the tax credit for 30 full-time
2944 employee positions or less in each of its taxable years.

2945 (b) A business entity that received a tax credit for its full-time employee positions
2946 under Subsections (1)(a) through (d) may claim an additional tax credit for a full-time
2947 employee position under Subsections (1)(a) through (d) if:

2948 (i) the business entity creates a new full-time employee position;

2949 (ii) the total number of full-time employee positions at the business entity is greater
2950 than the number of full-time employee positions previously claimed by the business entity
2951 under Subsections (1)(a) through (d); and

2952 (iii) the total number of tax credits the business entity has claimed for its current
2953 taxable year, including the new full-time employee position for which the claimant, estate, or
2954 trust that is a business entity is claiming a tax credit, is less than or equal to 30.

2955 (c) A business entity existing in an enterprise zone on the date of its designation shall
2956 calculate the number of full-time positions based on the average number of employees reported
2957 to the Department of Workforce Services.

2958 (d) Construction jobs are not eligible for the tax [~~credit~~] credits under Subsections
2959 (1)(a) through (d).

2960 (3) If the amount of a tax credit under this section exceeds a business entity's tax
2961 liability under this chapter for a taxable year, the amount of the tax credit exceeding the
2962 liability may be carried forward for a period that does not exceed the next three taxable years.

2963 (4) (a) If a business entity is located in a county that met the requirements of
2964 Subsections 63-38f-404(1)(b) and (c) but did not qualify as an enterprise zone prior to January
2965 1, 1998, because the county was located in a metropolitan statistical area in more than one
2966 state, the business entity:

2967 (i) shall qualify for tax credits for a taxable year beginning on or after January 1, 1997,
2968 but beginning before December 31, 1997;

2969 (ii) may claim a tax credit as described in Subsection (4)(a) in a taxable year beginning
2970 on or after January 1, 1997, but beginning before December 31, 1997; and

2971 (iii) may qualify for tax credits for any taxable year beginning on or after January 1,
2972 1998, if the county is designated as an enterprise zone in accordance with this part.

2973 (b) If a business entity claims a tax credit under Subsection (4)(a)(ii), the business
2974 entity:

2975 (i) may claim the tax credit by filing for the taxable year beginning on or after January
2976 1, 1997, but beginning before December 31, 1997:

2977 [~~(A) an individual income tax return;~~]

2978 (A) a return under Title 59, Chapter 7, Corporate Franchise and Income Taxes;

2979 (B) an amended [~~individual income tax~~] return under Title 59, Chapter 7, Corporate
2980 Franchise and Income Taxes;

2981 (C) a [~~corporate franchise and income tax~~] return under Title 59, Chapter 10,
2982 Individual Income Tax Act; or

2983 (D) an amended [~~corporate franchise and income tax~~] return under Title 59, Chapter
2984 10, Individual Income Tax Act; and

2985 (ii) may carry forward the tax credit to a taxable year beginning on or after January 1,
2986 1998, in accordance with Subsection (3).

2987 (5) The tax credits under Subsections (1)(a) through (g) may not be claimed by a
2988 business entity engaged in retail trade or by a public utilities business.

2989 (6) A business entity may not claim or carry forward a tax credit available under this
2990 part for a taxable year during which the business entity has claimed the targeted business
2991 income tax credit available under Section 63-38f-503.

2992 Section 47. Section ~~63-38f-501~~ is amended to read:

2993 **~~63-38f-501. Definitions.~~**

2994 As used in this part:

2995 (1) "Allocated cap amount" means the total amount of the targeted business income tax
2996 credit that a business applicant is allowed to claim for a taxable year that represents a pro rata
2997 share of the total amount of \$300,000 for each fiscal year allowed under Subsection
2998 63-38f-503(2).

2999 (2) "Business applicant" means a business that:

3000 (a) is a:

3001 (i) claimant as defined in Section 59-10-1102;

3002 (ii) estate as defined in Section 59-10-1102; or

3003 (iii) trust as defined in Section 59-10-1102; and

3004 (b) meets the criteria established in Section 63-38f-502.

3005 (3) "Community investment project" means a project that includes one or more of the
3006 following criteria in addition to the normal operations of the business applicant:

3007 (a) substantial new employment;

3008 (b) new capital development; or

3009 (c) a combination of both Subsections (3)(a) and (b).

3010 (4) "Community investment project period" means the total number of years that the
3011 office determines a business applicant is eligible for a targeted business income tax credit for
3012 each community investment project.

3013 (5) "Enterprise zone" means an area within a county or municipality that has been
3014 designated as an enterprise zone by the office under Part 4, Enterprise Zone Act.

3015 (6) "Local zone administrator" means a person:

3016 (a) designated by the governing authority of the county or municipal applicant as the
3017 local zone administrator in an enterprise zone application; and

3018 (b) approved by the office as the local zone administrator.

3019 (7) "Refundable tax credit" is as defined in Section 59-10-1102.

3020 ~~[(7)]~~ (8) "Targeted business income tax credit " means ~~[an income]~~ a refundable tax
3021 credit available under Section 63-38f-503.

3022 ~~[(8)]~~ (9) "Targeted business income tax credit eligibility form" means a document
3023 provided annually to the business applicant by the office that complies with the requirements of
3024 Subsection 63-38f-503(8).

3025 Section 48. Section **63-38f-502** is amended to read:

3026 **63-38f-502. Application for targeted business income tax credits.**

3027 (1) (a) For taxable years beginning on or after January 1, 2002, a business applicant
3028 may elect to claim a targeted business income tax credit available under Section 63-38f-503 if
3029 the business applicant:

3030 (i) is located in:

3031 (A) an enterprise zone; and

3032 (B) a county with:

3033 (I) a population of less than 25,000; and

3034 (II) an unemployment rate that for six months or more of each calendar year is at least

3035 one percentage point higher than the state average;

3036 (ii) meets the requirements of Section 63-38f-412;

3037 (iii) provides:

3038 (A) a community investment project within the enterprise zone; and

3039 (B) a portion of the community investment project during each taxable year for which

3040 the business applicant claims the targeted business tax incentive; and

3041 (iv) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, is

3042 not engaged in the following, as defined by the State Tax Commission by rule:

3043 (A) construction;

3044 (B) retail trade; or

3045 (C) public utility activities.

3046 (b) For a taxable year for which a business applicant claims a targeted business income

3047 tax credit available under this part, the business applicant may not claim or carry forward a tax

3048 credit available under Section 63-38f-413, 59-7-610, or [~~59-10-108.7~~] 59-10-1007.

3049 (2) (a) A business applicant seeking to claim a targeted business income tax credit

3050 under this part shall file an application as provided in Subsection (2)(b) with the local zone

3051 administrator by no later than June 1 of the year in which the business applicant is seeking to

3052 claim a targeted business income tax credit.

3053 (b) The application described in Subsection (2)(a) shall include:

3054 (i) any documentation required by the local zone administrator to demonstrate that the

3055 business applicant meets the requirements of Subsection (1);

3056 (ii) a plan developed by the business applicant that outlines:

3057 (A) if the community investment project includes substantial new employment, the

3058 projected number and anticipated wage level of the jobs that the business applicant plans to

3059 create as the basis for qualifying for a targeted business income tax credit;

3060 (B) if the community investment project includes new capital development, a

3061 description of the capital development the business applicant plans to make as the basis for

3062 qualifying for a targeted business income tax credit; and

3063 (C) a description of how the business applicant's plan coordinates with:

3064 (I) the goals of the enterprise zone in which the business applicant is providing a

3065 community investment project; and

3066 (II) the overall economic development goals of the county or municipality in which the
3067 business applicant is providing a community investment project; and

3068 (iii) any additional information required by the local zone administrator.

3069 (3) (a) The local zone administrator shall:

3070 (i) evaluate an application filed under Subsection (2); and

3071 (ii) determine whether the business applicant is eligible for a targeted business income
3072 tax credit.

3073 (b) If the local zone administrator determines that the business applicant is eligible for
3074 a targeted business income tax credit, the local zone administrator shall:

3075 (i) certify that the business applicant is eligible for the targeted business income tax
3076 credit;

3077 (ii) structure the targeted business income tax credit for the business applicant in
3078 accordance with Section 63-38f-503; and

3079 (iii) monitor a business applicant to ensure compliance with this section.

3080 (4) A local zone administrator shall report to the office by no later than June 30 of each
3081 year:

3082 (a) (i) any application approved by the local zone administrator during the last fiscal
3083 year; and

3084 (ii) the information established in Subsections 63-38f-503(4)(a) through (d) for each
3085 new business applicant; and

3086 (b) (i) the status of any existing business applicants that the local zone administrator
3087 monitors; and

3088 (ii) any information required by the office to determine the status of an existing
3089 business applicant.

3090 (5) (a) By July 15 of each year, the department shall notify the local zone administrator
3091 of the allocated cap amount that each business applicant that the local zone administrator
3092 monitors is eligible to claim.

3093 (b) By September 15 of each year, the local zone administrator shall notify, in writing,
3094 each business applicant that the local zone administrator monitors of the allocated cap amount
3095 determined by the office under Subsection (5)(a) that the business applicant is eligible to claim
3096 for a taxable year.

3097 Section 49. Section **63-38f-1102** is amended to read:

3098 **63-38f-1102. Definitions.**

3099 As used in this part:

3100 (1) "Composting" means the controlled decay of landscape waste or sewage sludge and
3101 organic industrial waste, or a mixture of these, by the action of bacteria, fungi, molds, and other
3102 organisms.

3103 (2) "Postconsumer waste material" means any product generated by a business or
3104 consumer that has served its intended end use, and that has been separated from solid waste for
3105 the purposes of collection, recycling, and disposition and that does not include secondary waste
3106 material.

3107 (3) (a) "Recovered materials" means waste materials and by-products that have been
3108 recovered or diverted from solid waste.

3109 (b) "Recovered materials" does not include those materials and by-products generated
3110 from, and commonly reused within, an original manufacturing process.

3111 (4) (a) "Recycling" means the diversion of materials from the solid waste stream and
3112 the beneficial use of the materials and includes a series of activities by which materials that
3113 would become or otherwise remain waste are diverted from the waste stream for collection,
3114 separation, and processing, and are used as raw materials or feedstocks in lieu of or in addition
3115 to virgin materials in the manufacture of goods sold or distributed in commerce or the reuse of
3116 the materials as substitutes for goods made from virgin materials.

3117 (b) "Recycling" does not include burning municipal solid waste for energy recovery.

3118 (5) "Recycling market development zone" or "zone" means an area designated by the
3119 office as meeting the requirements of this part.

3120 (6) (a) "Secondary waste material" means industrial by-products that go to disposal
3121 facilities and waste generated after completion of a manufacturing process.

3122 (b) "Secondary waste material" does not include internally generated scrap commonly
3123 returned to industrial or manufacturing processes, such as home scrap and mill broke.

3124 (7) "State tax incentives," "tax incentives," or "tax benefits" means the nonrefundable
3125 tax credits available under Sections 59-7-608 and [~~59-10-108.7~~] 59-10-1007.

3126 Section 50. Section **63-38f-1110** is amended to read:

3127 **63-38f-1110. Recycling market development zones credit.**

3128 For a taxpayer within a recycling market development zone, there are allowed the
3129 nonrefundable credits against tax as provided by Sections 59-7-610 and [~~59-10-108.7~~]
3130 ~~59-10-1007~~.

3131 Section 51. Section **63-38f-1203** is amended to read:

3132 **63-38f-1203. Definitions.**

3133 As used in this part:

3134 (1) "Board" means the Utah Capital Investment Board.

3135 (2) "Certificate" means a contract between the board and a designated investor under
3136 which a contingent tax credit is available and issued to the designated investor.

3137 (3) "Commitment" means a written commitment by a designated purchaser to purchase
3138 from the board certificates presented to the board for redemption by a designated investor.
3139 Each commitment shall state the dollar amount of contingent tax credits that the designated
3140 purchaser has committed to purchase from the board.

3141 (4) "Contingent tax credit" means a contingent tax credit issued under this part that is
3142 available against tax liabilities imposed by Title 59, Chapter 7, Corporate Franchise and
3143 Income Taxes, and Chapter 10, Individual Income Tax Act, if there are insufficient funds in the
3144 redemption reserve and the board has not exercised other options for redemption under
3145 Subsection 63-38f-1220(3)(b).

3146 (5) "Corporation" means the Utah Capital Investment Corporation created under
3147 Section 63-38f-1207.

3148 (6) "Designated investor" means:

3149 (a) a person who purchases an equity interest in the Utah fund of funds; or

3150 (b) a transferee of a certificate or contingent tax credit.

3151 (7) "Designated purchaser" means:

3152 (a) a person who enters into a written undertaking with the board to purchase a
3153 commitment; or

3154 (b) a transferee who assumes the obligations to make the purchase described in the
3155 commitment.

3156 (8) "Person" means an individual, partnership, limited liability company, corporation,
3157 association, organization, business trust, estate, trust, or any other legal or commercial entity.

3158 (9) "Redemption reserve" means the reserve established by the corporation to facilitate

3159 the cash redemption of certificates.

3160 (10) "Taxpayer" means a taxpayer:

3161 (a) of an investor; and

3162 (b) if that taxpayer is a:

3163 (i) claimant as defined in Section 59-10-1102;

3164 (ii) estate as defined in Section 59-10-1102; or

3165 (iii) trust as defined in Section 59-10-1102.

3166 ~~[(10)]~~ (11) "Utah fund of funds" means a limited partnership or limited liability

3167 company established under Section 63-38f-1213 in which a designated investor purchases an
3168 equity interest.

3169 Section 52. Section **63-55-209** is amended to read:

3170 **63-55-209. Repeal dates, Title 9.**

3171 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is
3172 repealed July 1, 2014.

3173 (2) Title 9, Chapter 2, Part 4, Enterprise Zone Act, is repealed July 1, 2008.

3174 (3) (a) Title 9, Chapter 2, Part 16, Recycling Market Development Zone Act, is
3175 repealed July 1, 2010.

3176 (b) Sections 59-7-610 and ~~[59-10-108.7]~~ 59-10-1007, regarding tax credits for certain
3177 persons in recycling market development zones, are repealed for taxable years beginning on or
3178 after January 1, 2011.

3179 (c) Notwithstanding Subsection (3)(b), a person may not claim a tax credit under
3180 Section 59-7-610 or ~~[59-10-108.7]~~ 59-10-1007:

3181 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
3182 ~~[59-10-108.7]~~ 59-10-1007 if the machinery or equipment is purchased on or after July 1, 2010;
3183 or

3184 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or ~~[59-10-108.7]~~
3185 59-10-1007(1)(b), if the expenditure is made on or after July 1, 2010.

3186 (d) Notwithstanding Subsections (3)(b) and (c), a person may carry forward a tax credit
3187 in accordance with Section 59-7-610 or ~~[59-10-108.7]~~ 59-10-1007 if:

3188 (i) the person is entitled to a tax credit under Section 59-7-610 or ~~[59-10-108.7]~~
3189 59-10-1007; and

3190 (ii) (A) for the purchase price of machinery or equipment described in Section
3191 59-7-610 or [~~59-10-108.7~~] 59-10-1007, the machinery or equipment is purchased on or before
3192 June 30, 2010; or

3193 (B) for an expenditure described in Subsection 59-7-610(1)(b) or [~~59-10-108.7~~]
3194 59-10-1007(1)(b), the expenditure is made on or before June 30, 2010.

3195 (4) Title 9, Chapter 2, Part 19, Utah Venture Capital Enhancement Act, is repealed July
3196 1, 2008.

3197 (5) Title 9, Chapter 3, Part 3, Heber Valley Historic Railroad Authority, is repealed
3198 July 1, 2009.

3199 (6) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1, 2006.

3200 Section 53. **Repealer.**

3201 This bill repeals:

3202 Section **59-10-128, Tax credit -- Items using cleaner burning fuels.**

3203 Section **59-10-209, Adjustments to state taxable income of resident estates or trusts**
3204 **and beneficiaries.**

3205 Section 54. **Retrospective operation.**

3206 This bill has retrospective operation for taxable years beginning on or after January 1,
3207 2006.

Legislative Review Note
as of 11-30-05 10:55 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Mixed Membership Committee Note
as of 12-21-05 4:20 PM

The Tax Review Commission recommended this bill.

Membership:	4 legislators	10 non-legislators		
Legislative Vote:	3 voting for	0 voting against	1 absent	